No. 17-333

In the Supreme Court of the United States

O. JOHN BENISEK, EDMUND CUEMAN, JEREMIAH DEWOLF, CHARLES W. EYLER, JR., KAT O'CONNOR, ALONNIE L. ROPP, *and* SHARON STRINE,

Appellants,

v.

LINDA H. LAMONE, *State Administrator of Elections, and* DAVID J. MCMANUS, JR., *Chairman of the Maryland State Board of Elections,*

Appellees.

On Appeal from the United States District Court for the District of Maryland

JOINT APPENDIX
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Q. Good morning, Mr. Cueman, and thank you for being here with us today. Could you just state your name for the record?

A. Okay. Edmund R. Cueman. And my address is 1201 Woods Road, Westminster, Maryland.

Q. Great. Thank you.

MR. MEDLOCK: Sarah, I don't mean to interrupt. Can we get just who's in the room real quick?

MS. RICE: Yep. So I am Sarah Rice, and I'm an Assistant Attorney General with the State of Maryland. I represent the defendants in this matter.

MS. KATZ: I'm Jennifer Katz, Assistant [6] Attorney General, and I also represent the defendants.

MR. MEDLOCK: Stephen Medlock, and with me is Micah Stein, counsel for the plaintiffs and the witness.

BY MS. RICE:

Q. So just a few preliminary matters. I think today we won't be here that long so we'll try to get through without a break, but if you need one for any reason, just let me know, and we'll find a good place to stop.

A. Okay.

Q. Also, if I ask you a question and you don't understand my question, please let me know, and I'll try to ask it in a different way so that you understand.

A. Okay.

Q. If you don't hear me, just let me know, and I will repeat myself. Please also, just for the court reporter's sake, try to give verbal answers to questions. That will help out a lot. And I think that's it. I'm going to just show you this [7] document.

(E. Cueman Deposition Exhibit 1 was marked for identification and is attached to the transcript.)

MR. MEDLOCK: Do you want to do sequential numbers throughout to keep everything—across all the depositions just to keep everything organized? So, for example, if we would have three here and then we would start with 4 in the next deposition.

MS. RICE: Sure, if that would be your preference.

MR. MEDLOCK: Sure.

MS. RICE: I don't have a strong one, but that sounds just fine.

Q. Mr. Cueman, have you seen this document before?

A. I have.

Q. And what is it?

A. It's a Notice of Deposition of myself.

Q. Okay. Great. And Mr. Cueman, have you taken any medication today?

A. Have I what? [8]

Q. Taken any medication today.

A. Yes, I did.

Q. And what was that medication?

A. Lisinopril.

Q. And would that medication impair your ability to testify today?

A. It would not.

Q. And is there any other reason why you might not be able to testify today?

A. No.

Q. Okay. Thank you. Mr. Cueman, what's your employer? Who's your employer? Are you employed?

A. I'm sorry?

Q. Are you employed?

A. I am.

Q. And who's—

A. I'm self-employed.

Q. Great. And what do you do?

A. I'm a land planner.

Q. And what does a land planner do?

A. Well, a land planner in the public sector which I was in, I served for 33 years in the public [9] sector. In Worcester County I was the County Planning Director for five years and 24 years in Carroll County. And then when I retired in '95 I hung out my own shingle. And I've been doing that ever since, practicing professional planning in the private sector.

Q. And who are your clients?

A. I have private clients, I have had public clients. I still have some public clients. Like for example, the Town of Union Bridge I handle site plan review for them, comprehensive planning, requirements and other administrative duties that they may assign to me. For private clients I can be called as an expert witness to testify based on my professional experience. And I do work for non profits too like the Carroll County Land Trust. I serve as the easement coordinator for the Carroll County Land Trust and I also serve on the Board of Land Trusts.

Q. You mentioned serving as an expert witness in some types of cases. What kinds of matters would you serve as an expert witness? [10]

A. It would be municipal matters pertaining to rezoning or conditional uses for the Board of Zoning Appeals cases. That's generally the focus that I've had.

Q. And would your clients be individuals or corporations?

A. It could be both, yeah.

Q. And what is the highest level of education that you attained?

A. I have a Bachelor of Arts degree from Western Maryland College.

Q. Great. When did you first register to vote?

A. When did I first register to vote? When I was eligible and I think it was 1963.

Q. And where did you live then?

A. Pardon me?

Q. Where did you live when you first registered?

A. I lived in Snow Hill, Maryland.

Q. And what Congressional District did you live in then?

A. Then that would have been District 1. [11]

Q. And who was your Congressional representative?

MR. MEDLOCK: Objection. Vague as to time frame.

Q. Who was your Congressional representative when you first registered to vote?

A. I can't recall right now. I'm drawing a blank on that.

Q. That's okay.

A. I can see him. I can see his face. He was a big man and he was very much involved with the Chesapeake Bay. I think his first name was Tom. I'm sorry, it's too far back there and I just can't bring that up.

Q. I understand. I do not—I cannot recall 1963 either.

MR. MEDLOCK: Me neither.

Q. How long did you live in Snow Hill?

A. I lived there until I moved—my family moved when I was offered a job in Carroll County in 1971.

Q. Okay. Where did you live after you moved? [12]

A. I lived for about almost two years in Finksburg, Maryland. We rented a place to stay while I was getting a piece of property to build a home on and get the house built and we moved into the house in December of 1973.

Q. Okay. And where was the house?

A. It was at 1201 Woods Road, Westminster, Maryland.

Q. When you lived in Finksburg do you know what Congressional District you lived in then?

A. I was in the 6th Congressional District.

Q. And do you remember who your Congressional representative was then?

A. It was Goodloe Byron.

Q. And when you moved to Westminster what Congressional District did you live in?

A. That was the 6th District as well. The entire county was in the District 6th.

Q. Who was your Congressional representative?

A. Goodloe Byron and then when Goodloe died, he had a heart attack, his wife assumed the office and then when she ran she was also my representative [13] then.

Q. Okay. And who was your representative after?

A. After Beverly was Roscoe Bartlett.

Q. Okay. And who was your representative after Mr. Bartlett?

A. Who is it, who is the representative?

Q. Who was the next representative?

A. I think it's Delaney.

Q. Okay. And that's your current representative?

A. Yes.

Q. Okay. So I'm going to ask you to return to 1963 again, I'm sorry, or thereabouts when you lived in Snow Hill. So for the entire time that you lived in Snow Hill, how often did you vote?

A. As I recall, I didn't miss a vote. Any time an election came around I voted and, as I said, I was working as a public servant at the time so it would have been inexcusable not to vote, in my own mind anyway.

Q. And when you say that you voted in every [14] election do you mean all general elections?

A. Um-hum. Yes.

Q. And primary elections?

A. Yes.

Q. And what if there was a special local election?

A. I don't recall any special local election that I ever voted in. I just don't recall that there was any while I was in Snow Hill.

Q. Okay. So when you moved to Finksburg is that the same answer or what were your voting habits then?

A. Yeah, I voted. I have not missed a vote that I'm aware of and I don't remember any special elections either that were held that I voted in. I just don't recall any.

Q. And just so I understand completely, when you moved to Westminster was there ever a vote that you missed after you moved there?

A. No.

Q. If you recall were there ever any special elections held? [15]

A. I don't recall any and I think if you're defining a special election as one that's out of the ordinary, it's called forth for some reason, something has happened and I'll put it this way, if there have been any special elections that were called for and I would have been eligible to vote, I would have voted but I just don't recall any.

Q. That's fair. And I just want to make completely sure that I understand you and that it's on the record. So would that be the same answer even in the most recent elections in 2012?

A. Yes.

Q. And 2014?

A. Yes.

Q. And 2016?

A. Yes.

Q. Great. Thank you. Are you registered as a member of a political party?

A. I am.

Q. And which one?

A. Republican.

Q. And when did you first register as a [16] republican?

A. When I first registered. My family was republican and when I became eligible to vote I registered republican.

Q. And have you ever changed your party registration?

A. I have not.

Q. And have you ever had any affiliation with another party in any other way other than registering?

A. An affiliation?

MR. MEDLOCK: Objection, vague.

Q. Okay. Have you ever donated to another political party?

A. Not to another political party, no.

Q. Have you ever attended a meeting of another political party?

A. I have not.

Q. Have you ever voted for a candidate that is not a republican?

A. I have.

Q. And when was that? [17]

A. That was—I can tell you who I voted for. I voted—are you talking about any election I guess?

Q. In any election, yep.

A. I voted for Charles Smelser who was a Senator, one of the finest Senators Maryland has ever had. I voted for him and he was a democrat.

Q. Okay.

A. I voted for Richard Dixon who was my delegate from Carroll County and I voted for Goodloe Byron and Beverly Byron who were both democrats.

Q. Okay. And are those—is that a complete list of all the times that you voted for someone who was not a republican?

A. Yes.

Q. Did you vote for Roscoe Bartlett in the 2012—

A. I did.

Q. —primary?

A. One thing I will just to amend that previous answer if we're talking about voting for members of the Board of County Commissioners, there were

[18] democrats that I voted for there. The Board was made up of both republican and democrats but I did vote for some members of the Board of County Commissioners who were democrats.

Q. Which Board of County Commissioners?

A. The Carroll County Board of Commissioners.

Q. Okay. And do you know during what time period?

A. Yes, that would have been between 1973 and 1995.

Q. And do you recall any particular Commissioners who were not republican who you voted for?

A. Yes. Roger Mann would be one. John Joy would be another one. I think that's it. I can't recall any others. Those two specifically.

Q. Great. Do you consider yourself to be politically active?

MR. MEDLOCK: Objection, vague.

A. I'm politically interested. I'm not an activist. I don't go around telling other people how to vote but I have my opinions and I do maintain [19] a pretty high level of interest in what's going on.

Q. And how do you maintain that interest?

A. I maintain it because having served, I guess when you serve in a county for 24 years as a County Planning Director and then you make maybe the mistake of not retiring somewhere else just, you know, hit the road, so you're living in the place you have been working for for a long time, so I pay attention to the newspapers and what's going on and local, in a local sense. And I do care about the country. I have a 12 year-old grandson and I'm very concerned for him and, you know, where we're going as a country. So it's just my nature, I'm not politically disinterested kind of person and that's

who I am. My wife makes sure that that doesn't get out of control.

MR. MEDLOCK: That sounds familiar.

Q. Have you ever attended an event held by your Congressional representative?

A. Yes. All the—an event is pretty broad and I would say mostly they would be meetings. For example, if I'm the County Planning Director and we [20] were attempting to construct a reservoir under Public Law 566 and Goodloe Byron is my representative and he has the money lined up in Washington for this project but with public hearing process you have to bring in everybody to explain what's going on. So that's an event that he would attend and then I would end up being there.

Q. So let's narrow it a little bit I think for purposes of this conversation. I'm interested in events that you may have attended held by your Congressional representative or with your Congressional representative not in connection with your work.

A. Okay.

Q. So outside of work.

A. Yeah. They border more on I guess you could say the social. Like we have the Carroll County Farm Museum and so whether it's Fall Harvest Days or some other function that's going on, that will typically draw your representative to it as well as state senators and delegates that will come, but it's not like a political meeting per se, you know, [21] it's more on the social side of it and that wouldn't be connected with my work.

Q. Sure. So I mean taking that kind of event would you ever attend an event like that to see your Congressional representative?

A. An event like what?

Q. How you described the farm festival.

A. Oh, yeah. Yeah, I would go because even if I wasn't the County Planning Director, even if I was retired, if I had nothing better to do would go because one of the problems with our country today, I shouldn't be doing this, but anyway, it's good to meet and greet your representatives, to see them in the flesh, and they don't get out enough to do that. They don't get out of Washington enough to do it.

Q. So you mentioned before when you were talking about these kinds of events that maybe you might have attended one with Goodloe Byron; do I understand you correctly?

A. Yes.

Q. So did you attend any of that kind of event with Beverly Byron? [22]

MR. MEDLOCK: Objection. Vague.

A. I can't recall a specific one but I had interactions with Beverly Byron just by virtue of my job, and sometimes, you know, a public servant's job doesn't end at 4:30 on a Friday so if something happens on the weekend and you have a representative coming to your county, it was almost expected that you might want to be around when they were, you know, coming to the county.

Q. Okay.

A. It was an opportunity to chat about things that were important to the county.

Q. And what about with representative Bartlett?

A. I would say the same. He used to come if there was a parade in Westminster, and Westminster is a big

parade to him, he'd be there in the parade on foot, not in a car riding. He'd walk the whole parade.

Q. And have you attended such a meeting or an event with representative Delaney?

A. I have not.

Q. And why haven't you attended a meeting with [23] representative Delaney?

A. I haven't seen him. I have no knowledge as to whether he's been in the county. He may have been but I haven't had any knowledge of him being in the county.

Q. And do you still attend parades in Westminster?

A. I do. Um-hum.

Q. Have you ever volunteered on a Congressional campaign?

A. I have not.

Q. Have you ever contacted your Congressional Representative Constituent Services?

A. I have. Um-hum. Yes.

Q. And on what occasion did you do that?

A. I did that with Congressman Bartlett and I was looking into a passport situation for a family that's in the Philippines.

Q. And have you had occasion for any other Congressional representative to contact Constituent Services?

A. For Constituent Service? [24]

Q. Yes.

A. Yes, we—I think this would come under that but the Carroll County Land Trust was very frustrated with some decisions that had been made in Washington by the Attorney General's Office when it came to the ground rules for administering federal

farm and ranch land protection funds. The Land Trust had been successful in securing almost two million dollars worth of money because we existed as a Land Trust, and it was a really good program because this was money that we could use to match against money that the county would put up.

Long story short, somebody started fooling around with the program and they started requiring things that our Land Trust didn't want to be in the position of asking any landowner to sign a document that would have this, what we considered very offensive language. It was like you were involved in a condemnation case. So we were kind of furious about that because we're on a goal, a mission up there to get a hundred thousand acres of land preserved and this was going to slow us down. It [25] wasn't the only program but it was—so we went to our congressman who was Roscoe Bartlett. We went through his office. He had an office in Westminster.

Q. Um-hum.

A. And he set up meetings in Washington and he brought people in and we went down and this was hashed out and discussed and so forth. And so that's the last time I have a vivid recollection of, you know, Constituent Service, and not for me directly but for the county, the Land Trust. Not even the county but the County Land Trust.

Q. Do you remember any other time that you contacted even before that about an issue that was important to you, your Congressional representative?

A. I don't remember, you know, where you would get very exercised about something and then you want to call them and talk. Not directly to the con-

gressman, I can't think of any, and we would probably be talking about Roscoe Bartlett probably because we're talking the last what, decade or so?

Q. Well, really any time that you remember. [26]

A. Yeah. Nothing jumps out at me. And I think part of the reason is because I was fortunate enough to maybe see or have contact with them. I wasn't, you know, commuting to Baltimore every day and away from home or I was pretty close to home.

Q. Okay. Do you remember what year the meeting with Roscoe Bartlett about the Land Trust issue was?

A. I don't remember the year but I'm going to say it's probably getting close to 10, 8 to 10 years back there.

Q. Okay. When was the first time that you became interested in redistricting?

A. It started with me in the late 60s and when I was in Snow Hill. At that time something happened that really disturbed me and that was when there were court cases and a Supreme Court decision which did not involve the State of Maryland, but as a result of that decision the State of Maryland went about reorganizing its legislature and then specifically the Senate because originally when Maryland was founded and they created and they had their counties that made up Maryland, they all had [27] at least one Senator and that transpired all the way on up until this point in Maryland's history when they changed how the Senate is organized. And my recollection is that Baltimore City had three Senators. Every county had one. So you had roughly 26, if I'm right on my numbers, that composed the Senate. And it was essentially a carbon copy of our federal system where every

state has two Senators and as we know, that's not what we have today. So that bothered me then and it's bothered me ever since.

Q. Do you remember what the Supreme Court case was called?

A. Pardon me?

Q. Do you remember the name of the case that you mentioned?

A. I remember I have this brought to my attention because I couldn't remember here of late but I think when it started it was Carr versus somebody, and then there was a companion case that came into play in some way. So I'm very hazy on it and when I get time because of what I'm doing here [28] now, when I get some time I'm going to—I'm going to try and get into that case and read it.

MR. MEDLOCK: Always good to read the cases.

THE WITNESS: Yeah.

Q. Favorite pastime of lawyers. Was it Baker V Carr?

A. Yes, I think that's what it was.

Q. And so that was about your interest in legislative redistricting, right?

A. Yes, and I will volunteer this. When I say I was concerned about it, I wrote a letter to Everett Dirksen who was a senator from Illinois and I put my concerns on paper and I got a reply from him that was not one of these staff written things. It was about three sentences long but it had his real signature on there. It was signed with a fountain pen and I've got that letter in my special papers file at home because I was a big fan of his.

Q. Yeah.

A. He was very upset about it too.

Q. Yeah.

A. He was not happy with the Supreme Court. [29]

Q. Do you remember a time that you became interested in Congressional redistricting rather than legislative?

A. Yeah. I had no concerns about Congressional redistricting until very recently. After the last—well, it was 2011 I believe when it followed the 2010 census and then I, you know, got concerned about that, yes. When it happened.

Q. When you say when it happened, do you mean—could you be more specific about what you mean?

A. Well, just that I woke up one day and realized I wasn't in the 6th Congressional District. A new map had been prepared and apparently adopted and so it was the result of, you know, just the changed boundaries and the realization that they had been changed.

Q. Do you know when that was you had that realization?

A. I just know it was in 2011 sometime. I'm not even sure of the month when it happened and there would have been a duration of time after it happened to, you know, understand what had happened. [30] You know, like sometimes something happens but you don't catch up with it and really realize what—you know, what the change really was.

Q. Were you aware that there was a referendum regarding the redistricting plan?

A. Now that you mention it, I sort of recall there was one but that sort of faded off my memory but I think you're right. I mean I believe there was one.

Q. And do you remember did you vote in favor of the referendum?

A. I would have, yeah. I wasn't happy with what had been done.

Q. Okay.

A. If the referendum was for the—if it was—I don't know what—

Q. Okay. Let me clarify just to make sure that we're all clear.

A. Yeah.

Q. I don't want any confusion. If there was a vote for or against the plan on the ballet how would you have voted? [31]

A. I would have voted against the plan, yeah. I would have voted against it.

Q. But do you have a specific recollection of doing that?

A. I would have had—yes, I would have had that opportunity to do that and I would have voted against that, yes.

Q. So you explained about the letter that you wrote when you first became interested in redistricting. Have you written any other letters since that time—

A. No.

Q. —about redistricting?

A. Nope.

Q. Have you ever gone to a public hearing about redistricting?

A. If I have I don't recall going.

Q. Have you ever submitted a comment about a redistricting plan?

A. I have no recollection of having submitted a comment.

Q. Have you ever called an elected [32] representative about redistricting?

A. No.

Q. And have you ever gathered signatures on a petition about redistricting?

A. I have not.

Q. Other than joining this lawsuit have you taken any action about the 2011 plan after its passage?

MR. MEDLOCK: Was that between—you're referring to the Congressional redistricting plan?

MS. RICE: Congressional redistricting plan.

A. I'm sorry, can you say that again? It's not your fault, my hearing is a little—

Q. I'm a little soft spoken so it's a combination of the two. So after the plan was passed, and we spoke about that and how that was the first time you became aware of Congressional redistricting; is that right?

A. Yes.

Q. I just don't want to mis-summarize what you said. Have you taken any actions—other than joining this lawsuit, have you taken any other [33] actions?

A. No. Now I understand. No, I have not.

Q. Okay. How did you first hear about this lawsuit?

MR. MEDLOCK: I caution you without going into anything you've talked to your attorneys about after there was a representational agreement but before that, you can go into that.

A. Okay. I received a phone call from a friend of mine who's name is Sam Riley and he informed me that

there was a case that was being developed and he asked me whether I'd be willing to be a plaintiff in this case. He gave me a little more information, you know, about what was happening and the upshot of it was I agreed to do that.

Q. And when was that conversation?

A. That was about a year ago. It was in January of last year.

Q. And how are you friends with Sam Riley?

A. Sam Riley is a—he's an attorney himself but there's no connection between his being an attorney and me. I know him, I've known him since [34] he was in 4H and he's the president of the Union Mills Homestead Foundation. He's a Shriner too. That's another thing. And so he's a valued friend and he's the kind of person if he calls up and asks you if you'd be willing to do something like this you just have to figure out whether, you know, you have the time to do it. So and I guess my feelings about districting, you know, which I think everybody should have some feelings about it, I said sure, I'll do it.

Q. And so what are those feelings?

A. Well, I guess the feelings are when your instincts tell you that something is going on that doesn't feel right, that's the feeling I had after I got the—the 6th District's been around from the beginning of Maryland's history. The counties that lie between the Mason Dixon Line and the Potomac River, Garrett, Allegheny, Washington, Frederick, Carroll, and even though the northern portion of Baltimore County was in the 6th District and it went over and included a pretty big part of Harford County along the Mason Dixon Line, it's just a [35] cohesive entity, and when you wake up some day

and you realize that the shape of this thing is what it is now, it looked to me like something didn't smell right. I just couldn't figure out how anybody could carve out something like that. So I became curious about it. And you read newspapers, it's not like this has not been discussed or people have made their opinions known about it, and to connect dots that it had been a very strongly held district, held by a republican in recent years, and prior to that it was democrats.

But what it really is it's not so much whether in my mind over these years I will draw a line up to maybe the present, but I will say if you're looking back it was not about democrats and republicans. It was about people who were generally conservative in their thinking, advocates of small government, being frugal, not having high tax rates. You can run through these counties you can find that kind of thinking up and down, you know, and all around.

So it just—and the county is—in this [36] state the county has always been a very significant entity. The counties are very—you know, they're—how shall I say? You identify with your county. It's not like New Jersey or any of the places where you have townships that break up the county and that sort of thing. The county government is a strong form of local government, and in the case of these counties that I just mentioned there's a bond that exists there. Over the years and all the years that I served, they met. They didn't have to but they had common values and problems and things, you know, that caused them so there's that kind of cohesiveness that's just been sitting there.

And my feelings were that every time there's a census, yeah, you may have to make some adjust-

ments. You can't freeze it in time but this is—the nature of what took place there was—it just like chopped up. It was a chop job. I don't know how—I mean what can express what took place but to say that I was disoriented or felt disconnected. Those are the kind of words that go into my own speaking for myself. I have absolutely [37] no connection with what is in this district except the portions of Frederick that were thrown in.

If you take a good hard look at all these counties that made up the six our entire county was in, and then someone went up into Westminster and they took the I think it's 3rd election district. It's the district that surrounds Westminster, took everything south to Mount Airy and to Sykesville or Freedom, took that all out and dropped it and hooked it up. You have that little point in Montgomery County that comes up and just touches our border about like a dot. It's where Howard and Carroll and Frederick all come together. Four corners they call it. And they funneled all that of our county down into what they were calling the 8th and what was left, that got tossed into the 1st District.

So where I live at 1201 Woods Road if you went a half a mile say, I could be in the 1st District and I could be back in Snow Hill again in Carroll County because the 1st District comes -- runs all along the Mason Dixon Line going east and then it comes down onto the Eastern Shore all the [38] way down to Virginia.

And so you asked me about my feelings, those are my feelings. And we have so many things that disconnect us as citizens from our representatives, it's worse now than it ever was I think. A person, an-

other attorney who is a good friend of mine, his name isn't important but he said—

MR. MEDLOCK: Just to stop you. If he's representing you then you shouldn't talk about conversations you had with another attorney.

THE WITNESS: Okay. I retract that.

Q. Yeah. If it was while he was representing you in a matter. If you were just speaking as friends you can go on.

A. Yeah.

Q. Okay, thank you. Oh, I wanted to clarify one of the things that you were talking about. You said that the unity that you felt with the fellow members of your county was not about democrats or republicans but more of a general conservatism that you shared, but I think I heard you say, and this is what I just want to clarify, that more recently you [39] didn't feel that that was the case. So could you tell me when that feeling changed?

MR. MEDLOCK: Objection. Mischaracterizes his testimony. Go ahead.

Q. And please correct me if I didn't get that correct.

A. No, I think you—what I'm saying I think my own voting record shows that just because I'm registered republican I don't necessarily vote a party ticket. I'm a conservative before—I guess me and I think a lot of other people are conservatives first and then they are party affiliated secondly. And so that's why you see in the history I guess of the district there have been both democrats and republicans who have represented it.

There's a point, this point I was referring to, I think there's been a drastic change between the parties today as compared to what they were in my

time frame, you know, we're going back to the '70s and the '80s and '90s. I'll just put it this way, the democrat party is not today what it was in [40] 1970. It's not the same political party. And so that's where it can put people I think more in a position of what choice do you have when you are going to the polls to vote in a district that still tends to be very conservative.

Q. So I'm interested in when you think that changed.

A. I don't think it was—I don't think it was like any one day or maybe the word point is not a good one. It didn't swing—I think it's been a gradual, a gradual. I would say probably you would have to go back—you could go back 10 years maybe and say, you know, it was starting. I don't really have a good handle on it but all I know is that in the last several years it's just a totally different party.

And you know, you could say something similar about the republican party. They're not the same either but there's no comparison whatsoever in terms of who's hung around to kind of be conservative and represent the people who tend to be conservative. So that's just how I see it. [41]

MR. MEDLOCK: Do you want to take a break if you want to confer?

MS. RICE: That's what I was going to say. Why don't we take a break.

(A recess was taken.)

BY MS. RICE:

Q. I just have a few more questions. So I just want to go back over a little bit that we did before because I'm just afraid that we might not have been clear. So we talked—because at times I think we—you had talked about or maybe I asked you questions

about John Delaney, but I wanted—and so to clarify, we also asked you a specific question about the 2012 election and whether you voted for Roscoe Bartlett in the republican primary. So I wanted to give you a chance to clarify that answer because it's my understanding that you live in the 8th Congressional District now; is that right?

A. Yes, I am.

Q. Right.

A. Yes.

Q. Okay. [42]

A. Okay. Yes, so I couldn't have voted for him.

Q. Right.

A. I guess is what we're saying.

Q. Well, yeah. I don't want to mislead you and make sure --

A. Yeah.

Q. —that—

A. No. Thank you.

Q. So have you ever been to an event with Chris Van Hollen?

A. I have not.

Q. And have you ever talked to Mr. Van Hollen?

A. I have not.

Q. Have you had any occasion to contact him for Constituent Services, his office?

A. I have not.

Q. Okay. Great. Those are our questions.

A. The only time I ever—

MR. MEDLOCK: Go ahead.

Q. Go ahead.

A. Chris used to be in the Maryland legislature [43] but I had nothing—you know, I knew him. I might have waved to him or said hello, but at that time this wasn't even on the radar screen because that's going back to, you know, prior to him even serving in Congress.

Q. Great.

A. Yeah.

MS. RICE: Okay. That is all that we have for you guys.

MR. MEDLOCK: I don't have any other --

THE WITNESS: Do you want to mention that one about Delaney?

MR. MEDLOCK: Yeah. So I guess I will ask one that builds on what you were talking about.

EXAMINATION BY COUNSEL FOR THE PLAINTIFFS BY MR. MEDLOCK:

Q. So I want to be really clear. When you were redistricted in 2011 the area you were in moved from the 6th District to the 8th District, right?

A. Yes.

Q. And in 2012 when you were voting your choice was between Chris Van Hollen and his republican [44] opponent and anyone else that was running against Mr. Van Hollen on the ballot, right?

A. Correct.

Q. And in the last election it would have been Jamie Raskin and anyone running against Mr. Raskin?

A. Correct.

Reply Expert Report of Dr. Peter Morrison

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

O. John Benisek, et al.,

Plaintiffs,

vs.

Linda H. Lamone, et al.,

Defendants.

Case No. 13-cv-3233
Three-Judge Court

REPLY EXPERT REPORT OF DR. PETER A. MORRISON

May 22, 2017

I. INTRODUCTION

1. My name is Dr. Peter A. Morrison. I previously prepared a report in this matter dated April 7, 2017 (my "Initial Report"). My qualifications are included in that report and are not repeated here.

2. My original assignment in this case was to ascertain whether the boundaries of the Sixth Congressional District that were adopted by the Maryland General Assembly in 2011 can be explained by legitimate districting considerations. In particular, I was asked to assess whether the boundaries of 2013

CD6 can be explained by the maintenance of communities of interest. I also was asked to determine whether there is objective demographic evidence supporting the conclusion that the Maryland General Assembly specifically intended to burden the representational rights of Maryland Republicans because of how they had voted in the past and the political party with which they had affiliated.

3. I have been asked by counsel for Plaintiffs to comment on the theories and analyses presented in the reports of Prof. Allan J. Lichtman, Secretary John T. Willis, and Mr. William S. Cooper to the extent that they are relevant to my Initial Report. I also have been asked to review Prof. Lichtman's criticisms of my report and his own conclusions, to evaluate their relevance and reliability with reference to standard demographic methods and data.

4. In preparing my Initial Report, I reviewed documents, depositions, interrogatory responses, and responses to requests for admissions and drew upon data from the 2010 decennial census and the annual American Community Survey. In addition to the materials considered in my Initial Report, I have reviewed these Lichtman, Willis, and Cooper reports, the documents relied upon in those reports, and depositions that have been taken since I submitted my Initial Report. The opinions expressed in this report are based on my review of this information as well as my training and experience as a demographer and sociologist.

II. SUMMARY OF OPINIONS

5. Based on my analysis to date, I have reached the opinions that I expressed in my Initial Report, as well as the following additional opinions:

   a) Nothing in the Lichtman, Willis, or Cooper reports has caused me to change any of the opinions that I expressed and explained in my Initial Report.

   b) Mr. Cooper and Secretary Willis offer no critique of the methodology, data, or conclusions contained in my initial report. Only Prof. Lichtman attempts to critique the reasoning behind my demographic conclusions and methodology.

   c) Prof. Lichtman's criticism of my Initial Report is largely irrelevant. He neither challenges any of my conclusions nor questions the data and analyses supporting those conclusions.

   d) Prof. Lichtman appears to have misconstrued what is at issue in this case. As Plaintiffs have explained to me, the issue is whether State officials sought to impose a burden on a group of citizens in response to their engagement in activity protected by the First Amendment, and whether they succeeded in doing so.

   e) Prof. Lichtman's criticism of my Initial Report as unscientific is misplaced. Both Prof. Lichtman and I each rely upon and reason in line with distinct scientific models. My reasoning abides by the well-defined model for drawing conclusions from quantitative data. I pose a null hypothesis, and subject it to possible rejection by empirical data. Scientific null assumptions are used to advance an alternative to the null proposition.

f) Prof. Lichtman and I draw on different disciplines to reach our conclusions. While I am a demographer, Prof. Lichtman is an historian. His reasoning follows a different scientific model befitted to historical accounts and anecdotal evidence, not objective demographic data.

g) The issues Prof. Lichtman raises about "community of interest" are unfounded. I have relied upon Census Bureau definitions of established communities: incorporated cities and towns and unincorporated Census Designated Places (CDPs). Demographers such as myself recognize these as standard definitions of established geographic communities of interest.

h) I have examined the existing evidence on daily commuting patterns on I-270. Census Bureau data concerning patterns of commuting and the deposition testimony in this case lead me to conclude that there is no community of interest based on commuting patterns on I-270.

i) Contrary to Prof. Lichtman's doubts, objective demographic facts can be used to identify the plausible intentions of the Maryland legislature and its map-makers. When supplemented by the discovery record, my analysis can be used to form a conclusion regarding the intent of the Maryland legislature and its map-makers.

j) Prof. Lichtman mischaracterizes my analysis in this case and in *Fletcher v. Lamone*.

III. Prof. Lichtman Challenges None Of My Central Conclusions Or Supporting Data

6. In my Initial Report, I reached the following conclusions, which Prof. Lichtman does not dispute:

a) First, the reconfiguration of CD6 cannot be explained by legitimate districting considerations, such as the preservation of existing communities of interest. As shown in Table 3 (on page 67) of my Initial Report, the 2011 Congressional Plan dismembered most established communities of interest in CD6. In the prior version of CD6 (used for the 111th Congress), 4 of 35 (11%) communities of interest (also known as "Census Places") were split by the boundaries of the Sixth District. In the current version of CD6 (used for the 113th Congress), 13 of 22 (59%) of communities of interest were split by the boundaries of the Sixth District. Prof. Lichtman does not challenge this demographic evidence.

b) Second, objective demographic evidence supports the conclusion that the Maryland General Assembly specifically intended to burden the representational rights of Maryland Republicans. The General Assembly did so by interchanging approximately 375,000 residents (nearly half the original CD6 population). That excessive interchange of 375,000 residents was over 20 times greater than the mere 17,249 reduction of the district's residents necessary to reapportion the total population of CD6. Prof. Lichtman does not challenge this demographic evidence.

c) It was readily possible to reapportion the total population of CD6 without splitting so many existing Census Places. The post-redistricting increase in non-intact Census Places (from 11% of all communities to 59%) strongly indicates that the Maryland General Assembly and its map-

makers had motives other than rebalancing total population.

d) One such plausible motive was to remove Republican registered voters and scatter them across other districts, so as to burden their representational rights. This motive has been confirmed by the testimony of high-level Maryland officials, including former Governor Martin O'Malley.

e) Prof. Lichtman questions my inferring legislative intent from objective demographic evidence. My conclusion as originally stated, however, is not in dispute: Objective demographic evidence does support this plausible motive. The newly-configured CD6 did, in fact, result in a wholesale replacement of Republican registered voters with non-Republican ones. Prof. Lichtman does not challenge this objective demographic evidence, nor does he challenge the plausibility of that motive.

f) Third, my partisan gain and loss accounting reveals a telltale statistical footprint presenting unambiguous evidence of partisan intent as the predominant motivating factor for dismembering CD6. The legitimate aims of equalizing the District's total resident population and respecting existing communities of interest insofar as possible were subordinated in favor of that single-minded partisan intent. Prof. Lichtman does not challenge these objective demographic truths, nor does he challenge my conclusion that this statistical footprint presents "unambiguous evidence."

IV. Prof. Lichtman Misunderstands The Point Of My Initial Report

7. Prof. Lichtman criticizes me for examining only CD6.[1] Evidently, Prof. Lichtman misunderstands the scope of my analysis and the questions that I was retained to answer.

8. It is my understanding that the opinions and analysis in my Initial Report stem from the central issue in this case. That issue, I was told, derives from the "First Amendment retaliation" doctrine and the following questions: Did state officials act with specific intent to impose a burden on a group of citizens in response to those citizens' engagement in activity protected by the First Amendment, and did they succeed in imposing such a burden?

9. I set out to analyze demographic questions related to this legal inquiry, not those questions that Prof. Lichtman faults me for ignoring. I did so by examining changes just to CD6, not the entire 2011 redistricting plan. The two questions I addressed are:

   a) Can the new boundaries of CD6 be explained by legitimate districting considerations, in particular by the maintenance of existing communities of interest?

   b) Does objective demographic evidence support the conclusion that the Maryland General Assembly intended to burden the representational rights of Maryland Republicans because of how they had voted in the past and the political party with which they had affiliated?

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[1] Lichtman Rep. at 3.

10. If respect for communities of interest was a prominent consideration in reapportioning the total population of CD6, the map drawers easily could have drawn a different district—one that closely resembled the district that existed between 2001 and 2011 and that respected its historical continuity.[2] Prof. McDonald's Opening Expert Report, which confirms my conclusions, demonstrates this point. He presents an alternative, illustrative map confirming that the population of the Sixth District could be reapportioned, without ripple effects, while respecting existing communities of interest.[3] Based on Prof. McDonald's analysis, and my own review of relevant demographic factors, I conclude that there was some other explanation for why CD6 was drawn as it was.

V. My Scientific Model Befits Drawing Conclusions From Quantitative Data

11. Prof. Lichtman characterizes my Initial Report as "result-driven," and, therefore, unscientific and unreliable.[4] He is mistaken.

12. Prof. Lichtman is an historian, not a demographer. Our different disciplines dictate the use of different

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[2] For example, Frederick County was included (in its entirety) in the Sixth Congressional District continuously since 1872. However, the 2011 redistricting split Frederick County's population roughly in half between the Sixth and Eights Congressional Districts. Likewise, while Carroll County had been included in the Sixth Congressional District continuously since 1966, the redistricting removed it from the Sixth District entirely and split its population between the Eighth and First Districts.

[3] Opening Expert Report of Prof. Michael P. McDonald, PhD, dated April 7, 2017.

[4] Lichtman Rep. at 11.

models and data. Prof. Lichtman reasons from a different scientific model befitted to historical accounts and anecdotal information, not hard demographic data. I rely upon quantitative demographic data and methods.[5]

13. My professional field of applied demography encompasses a diverse set of endeavors that draw on demographers' specialized knowledge, technical skills, and extensive familiarity with relevant data sources.[6] Data are at the heart of applied demography, which is why its practitioners devote considerable effort to understanding the limits imposed by the data they use. In my field, an established model for drawing conclusions from quantitative data poses a null hypothesis, denoted as H_0, then subjects that null hypothesis to potential rejection by empirical data. That is how I have addressed the two questions above.

14. My first step was to identify available data for subjecting the null hypotheses to empirical test. I settled on the Census Bureau's measures of established geographic communities, detailed below.

A. Census Bureau Measures Define Established Communities Of Interest

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[5] Prof. Lichtman criticizes me for "pursuing [a] historical inquiry." (Lichtman Rep. at 12). Again, Prof. Lichtman appears to misunderstands my Initial Report. I offered the factual bases for my opinions including the history of how Maryland's Congressional Map was drawn. These facts confirm the demographic analysis that I offer in my Initial Report. Determining whether the facts supported my analysis was not an error, it is sound science.

[6] See Peter A. Morrison, "Continuity and Change Across the Population Sciences," access at: www.researchgate. net/publication /316999486_Continuity_and_Change_Across _the_Population_Sciences.

15. In my Initial Report, I explained that "the most clearly recognized communities of interest center on the residents of established communities, such as incorporated cities and towns and Census Designated Places."[7] I elaborated as follows:

> The US Census Bureau defines such established communities collectively as Census "Places," recognizing that their residents share well-defined commonalities of interest tied to place. Census Designated Places (CDPs) have been recognized and identified in each decennial census since 1980 as the counterparts of incorporated cities, towns, and villages. CDPs are populated areas that generally include one officially designated but currently unincorporated small community, for which the CDP is named, plus surrounding inhabited countryside of varying dimensions and, occasionally, other, smaller unincorporated communities as well.[8]

16. Current Census Bureau criteria require that a CDP name "be one that is recognized and used in daily communication by the residents of the community" (not "a name developed solely for planning or other purposes") and recommend that a CDP's boundaries be mapped based on the geographic extent associated with inhabitants' regular use of the named place.[9]

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[7] Initial Report, ¶ 138.

[8] *Id.*

[9] *Id.*; *see also* US Census Bureau, "Geographic Terms and Concepts – Place," https://goo.gl/T7aKiL (last visited April 5, 2017).

17. My next step was to formulate the null hypothesis to be challenged by the Census Place data: "The newly configured CD6 respects existing communities of interest."

18. To test this null hypothesis, I compared the number and percentage of Census Places that were split before CD6 was drawn and after CD6 had been reapportioned. That comparison rejects *Ho* decisively: Far more Census Places (or, communities of interest) were split following redistricting than beforehand. Specifically, 59% of the 22 Census Places within the 113th CD6 were split, whereas only 11% of the 35 Census Places within the 111th CD6 were split. Such an extreme difference leads to the conclusion that respect for communities of interest was disregarded.

B. Commuters Are Unrecognizable As A "Community Of Interest" In CD6

19. As I pointed out in my Initial Report, the State of Maryland's justification for attaching portions of Montgomery County to CD6 was to respect an *existing* purported "community of interest."[10] Citing testimony from certain GRAC Hearings and a portion of Senate President Miller's deposition, Prof. Lichtman claims that commuting patterns on I-270 between Montgomery County and Frederick County justified the new boundaries of CD6.[11] Prof. Lichtman misconstrues this testimony. In fact, demographic data shows that commuter flows cannot justify the new boundaries of CD6.

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[10] Initial Rep. at ¶¶ 136-139.

[11] Lichtman Rep. at 15-23.

20. To be clear, I do not deny that I-270 is used by some commuters to travel from Frederick County to Montgomery County or the District of Columbia. That is not the question. The question is whether this flow of commuters, and any other relevant factors, justify creating a new community of interest that encompasses Western Maryland and portions of Montgomery County, including Census Places such as Gaithersburg, Germantown, Potomac, Aspen Hill, and Derwood. Plaintiffs argue that this DC-bound commuter population is a vital "community of interest," which justified adding a portion of Montgomery County to CD6 and retaining only a portion of Frederick County in the newly-drawn CD6. This is not the case. As I point out in my Initial Report:

> This "community of interest" justification fades in the face of US Census Bureau data on journey to work (see Table 2). Only 21.3% of workers living in Montgomery County commute to a job in DC; most commute to jobs located *within* Montgomery County (59.4%) or in neighboring Frederick, Howard, Anne Arundel, or Prince George's Counties. Among workers in Frederick County, a miniscule 3.4% commute to a job in DC; and in Washington County, just 1.1% do so.[12]

21. Even were one to regard workers across a region who commute to jobs within that region as a weak "community of interest," that community cannot justify splitting the majority of established Census Places within CD6. As I note in my Initial Report:

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[12] Initial Rep. ¶ 137.

The data in Table 3 discredit any suggestion that a purported shared interest among a small fraction of resident commuters could justify splitting the majority of established Census Places within the 113th CD6. Even granting the existence of that purported shared interest, its significance pales relative to the collective shared interests of the 13 established Census Places whose boundaries ended up being split in the 113th CD6.[13]

22. ***Senate President Miller's Testimony.*** Prof. Lichtman's reliance on Senate President Miller's testimony is misplaced for several reasons:

    a) Although Senate President Miller justified the new boundaries of CD6 based on commuting patterns on I-270, Senate President Miller testified that he did not review any data concerning commuting patterns on I-270 before voting on the Congressional map.[14] Nor did Senate President Miller recall asking to see such data or reviewing it.[15] Other witnesses, such as Governor's Redistricting Advisory Committee chair, Jeanne Hitchcock, did not recall seeing any data regarding commuting patterns on I-270 during her time on the GRAC,[16] or requesting such data.[17] When asked "Did you at all consider when voting on the proposed congressional map commuting patterns on I-270?," Michael Busch, the

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[13] *Id.* at ¶ 144.

[14] Miller Dep. at 20:2-8.

[15] *Id.* at 20:16-22:1, 44:17-45:11.

[16] Hitchcock Dep. at 60:1-62:3.

[17] *Id.* at 171:2-15.

Speaker of the Maryland House of Delegates and a member of the GRAC, testified, "No. It never—never crossed my mind."[18] Speaker Busch went on to testify that he never asked for data concerning commuting patterns on I-270 and that he did not recall anyone else asking for such data.[19] In fact, although the GRAC was provided with several hundred pages of Census data and briefing materials,[20] these materials contained no information regarding the purported "I-270 Corridor,"[21] and Ms. Hitchcock did not request any separate briefing materials regarding the I-270 corridor.[22]

b) Importantly, Senate President Miller's testimony gets that very process of redistricting backwards. Redistricting is supposed to maintain and respect existing communities of interest, not manufacture new communities of interest. Senate President Miller did not testify that the GRAC and General Assembly were respecting *existing* communities of interest. Instead, he testified that the legislature and its map-makers created a *new* community of interest by including southern Frederick County and portions of Montgomery County in the same congressional district.[23] Creating a purported new "community

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[18] Busch Dep. at 100:12-16.

[19] *Id.* at 100:17-101:5.

[20] *See* Hitchcock Dep. Ex. 104.

[21] Hitchcock Dep. at 169:11-19.

[22] *Id.* at 169:20-170:1.

[23] *See* Miller Dep. at 143:19-144:29 ("Q: Could the 6th Congressional District have been drawn in such a way as to keep Frederick County intact? A: Not if you keep the Potomac River Corridor

of interest" is wholly different than respecting one that actually exists, based on hard demographic data. Senate President Miller's "community of interest" envisions district lines drawn so as to connect economically disadvantaged communities in one section of Maryland with prosperous urban communities in another section. Such district lines delineate no existing "community of interest." Rather, they artificially join residents with distinctly different interests, who reside in established communities of interest (specific established Census Places) in one or another section of the state.

23. ***GRAC Hearing Testimony.*** Prof. Lichtman's reliance on select portions of the oral testimony offered before the GRAC is also misplaced:

    a) Prof. Lichtman's analysis assumes that the GRAC changed the borders of CD6 in response to comments received at certain public hearings. However, the chair of the GRAC, Ms. Hitchcock, did not recall relaying any of this feedback to anyone.[24]

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or the 270 Corridor. Q: So it's your testimony that you can't keep Frederick County intact if you want to keep the I-270 Corridor or the Potomac River Corridor intact as well? A: And also enjoy the benefits of economic development from Montgomery County. Q: When you say enjoy the benefits of economic development from Montgomery County – A: Right. Q:— how does this map spur economic development? A: Well, it creates a community of interest from the poor areas with those that— developing areas with those areas that are developed, and it creates very— for example, these areas are very challenged economically. Q: So you're referring to Garrett, Allegany and Washington? A: Yes.").

[24] Hitchcock Dep. at 171:22-173:10.

b) Prof. Lichtman focuses on the oral testimony offered at GRAC Hearings, but he ignores written comments that the GRAC received that are contrary to his analysis. Such as:

- "This 'plan,' especially the gerrymandering of the sixth congressional district[,] is as subtle as being stuck in the face by a baseball bat."[25]
- "To lump in a portion of Montgomery county with the remainder of the proposed 6th is ludicrous. The have a complete different set of problem just because of their population density. The rural counties of Carroll, Fredrick, Washington and Allegheny have a completely different set of problems. . . . We need somebody who knows the people who live in rural areas and their needs, hunting, limited government overreach, farming, etc."[26]
- "It would appear that you are adding just enough Montgomery County to negate the Republican voice of the western counties. The areas are as different as the people and no one person can effective[e]ly represent both of those areas in my opi[ni]on[.]"[27]
- "This plan is just an attempt to eliminate the conservative voters from really having any say in Western Md. politics. There is no[] inherent connection with Montgomery County and Frederick County just because

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[25] MCM002437.

[26] MCM002240.

[27] MCM002240.

of 1270. The people of Frederick County will not stand for this attempt to reduce our influence on how we as voters feel. Please don't [vote] for this new district map."[28]

VI. Ample Testimony Corroborates My Demographic Conclusions

24. Prof. Lichtman criticizes me for using demographic data and methods to reach conclusions relevant to the intent of the Maryland General Assembly and its map-makers.[29] This criticism misses the mark. I am not an expert on intent, as Prof. Lichtman, supposes me to be. Instead, I opine on demographic facts and observe that those facts are consistent with the deposition testimony and other evidence.

25. Prof. Lichtman states, "No evidence, whether demographic or otherwise, simply leaps out and speaks for itself. Evidence must be culled, selected, and interpreted, especially as it relates to a complex causal question such as the intent of a legislative body."[30] Prof. Lichtman is correct—demographic evidence does not, and cannot, speak for itself. Instead, my analysis corroborates the testimony of key observers. I have joined my assembled empirical demographic facts with numerous specific statements by individuals concerning the intent of the legislature and its map-makers. Those facts are consistent with the demographic data documented in my report. These numerous specific statements, further corroborate my conclusions.

26. <u>Deposition of Governor Martin O'Malley</u>

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[28] MCM002527.

[29] Lichtman Rep. at 3, 12.

[30] Lichtman Rep. at 12.

a) Pages 25-27:

Q. Right, but in your capacity as governor of the state, you made a decision that what you'd like to see is the Sixth District converted from a majority of Republican voters to a majority of Democratic voters; is that a fair statement?

A. Well, I think it's fair to say that, as we did the redistricting, that we knew it would impact the Sixth, and our hope was—my intention was—that it would impact it in—all things being equal—in a more positive way for our nominee, whoever that might be. . . . Was a decision made? I suppose in the sense that we decided not to try to cross the Chesapeake Bay, that **a decision was made to go for the Sixth**. . . . [S]o, yes, we—**everybody pretty much knew that, as we redrew the lines, it would put more Democrats and Independents into the Sixth District**. And, hopefully, in the course of the campaign, I hoped, as a Democrat, that that would mean the election of another Democrat.

b) Page 28:

Q. [W]hat specific goals were advanced by moving 350,000 Montgomery County residents into the Sixth District?

A. The Congressional representation of Montgomery County improved, the number of Democrats and Independents living in—and progressive-minded people living in the Sixth Congressional District probably increased, and, as I said before, a couple of times, and as I, you know, it was also my

hope that we would—that the people would elect a Democratic Congressperson rather than a Republican at the end of this process.

c) Page 43:

A. [After meeting the statutory deadline and complying with one-person-one-vote], then a third factor was, when we redrew this, **yes, we wanted to do it in a way . . . that will make it more likely rather than less likely that a Democrat . . . is able to prevail in the general election.**

d) Page 47:

A. And as I've said many, many times here before, **part of my intent was to create a map that, all things being legal and equal, would, nonetheless, be more likely to elect more Democrats rather than less**.

e) Page 63:

A. . . . [O]ne of the considerations I had was to create a district that was more favorable rather than less favorable to Democratic nominees.

f) Page 81:

A. . . . [S]o, yes, **we all—those of us in leadership positions in our party, the Speaker, the Senate President, the Democratic Dean of the Delegation, myself, Lieutenant Governor, we all understood that**, while our—while we must fulfill our responsibility on redistricting, must be mindful of constitutional guidelines, restrictions, case law, statutes, **it was also—part of our intent was to create a map that was more favora-**

ble for Democrats over the next ten years and not less favorable to them. Yes, that was clearly one of our many modus.

g) Page 82:

A. . . . [I]t was also my intent to create a map that would be more likely to elect or create—create a district where the people would be more likely to elect a Democrat than a Republican, yes, this was clearly my intent.

27. **October 3, 2011, Democratic Caucus Talking Points**: The draft Congressional map "gives Democrats a real opportunity to pick up a seventh seat in the delegation by targeting Roscoe Bartlett."[31]

28. **Deposition of Maryland Delegate Curtis Anderson:**

Q. But you understood that the map would move Maryland from six Democrats and two Republicans to seven Democrats and one Republican?

A. Yes.[32]

29. **Deposition of Eric Hawkins (NCEC Services):**

Q. When you redrew the boundaries of Maryland's congressional districts, did you intend to make the 6th Congressional District more Democratic?

A. The intent was to see if there was a way to get another Democratic district in the state. . . .[33]

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[31] Miller Dep. Ex. 139 at 2.

[32] Anderson Dep. at 212:6-9.

[33] Hawkins Dep. at 230:15-231:1.

30. **Speech Delivered by Attorney General Douglas Gansler:**

> The third issue is redistricting. And the redistricting is interesting because I actually have to defend the legislature in its drawings of the map. . . . So many people have a problem with the way in which the state was gerrymandered this last time. For example, in the Sixth District . . . Garrett County, Maryland, a very rural, agrarian part of the state is coupled with Potomac, Maryland in Montgomery County, which is perhaps the most wealthy and least agrarian part of the state. And, yet, they are voting for the same representative in the election between Roscoe Bartlett, a long-time Congressman, and John Delaney, sort of a newcomer on the political scene. . . . So, what happened, we have eight congressional districts, . . . the Democrats had the ability . . . to look at the state gerrymandered in such a way to make it 7 [Democratic representatives] to 1 [Republican representative]. . . . They were looking do they want to make the Eastern Shore, try that again, to make it even more Democratic and make that the seventh Democratic district, or Western Maryland. They chose Western Maryland, and it's actually a 53% Democratic District.[34]

31. **October 20, 2011 Letter From Attorney General**:

> As indicted by those who participated in developing and adopting the redistricting plan, including the [GRAC], the Governor, and the

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[34] Initial Rep. at ¶ 111.

> General Assembly, the boundaries of the newly adopted Congressional districts reflect a number of considerations, including . . . partisan consideration.[35]

32. I also cite several additional statements made by the legislators who considered and voted on the 2011 Congressional map at pages 50-57 of my Initial Report. Prof. Lichtman does not contradict these statements in anyway. Rather, he takes issue with me for including them in my Initial Report. But Prof. Lichtman never explains why it is wrong for a scientist to determine whether the evidence supports his or her key conclusions. This is a necessary and important part of any rigorous scientific inquiry, and exactly why I lay out these facts in my Initial Report and this report.[36]

VII. Prof. Lichtman Misunderstands My Statements In *Fletcher v. Lamone*

33. Prof. Lichtman misunderstood the analysis that I offered in *Fletcher v. Lamone*. My point in *Fletcher* was that there was a corridor between Baltimore

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[35] *Id.* at ¶ 120.

[36] Prof. Lichtman also misses the point when he criticizes the facts that I offer concerning cultural and media sources in Western Maryland. The point of my Initial Report was that Western Maryland has its own educational and cultural institutions, newspapers, and television stations located in Western Maryland. *See* Initial Rep. at ¶ 23. Prof. Lichtman does not challenge this fact. Instead, he claims that it should be disregarded because some students at these educational institutions and attendees at cultural events may not come from Western Maryland. Lichtman Rep. at 23. Nor does Prof. Lichtman deny that communities in Western Maryland have their own newspapers, or that some individuals in Western Maryland have advocated that Western Maryland should secede from the remainder of the state. *Id.* at 25.

and Washington, D.C. that "has grown in population and integration in the last three decades."[37] As I noted in my *Fletcher* declaration, there are significant links between Baltimore and Washington, D.C. beyond commuting patterns. In particular, the African-American and Hispanic share of registered voters in this area had increased significantly between 2000 and 2010.[38] This migratory influx of African-Americans and Hispanics to the suburbs between Washington, D.C. and Baltimore was part of a national demographic trend toward more racially diverse suburbs, fueled by minority suburbanization.[39] These minority populations were younger and replacing older Caucasian voters in these suburban communities.[40] My analysis showed that the minority communities in this "Maryland corridor" had "common needs" and "share concerns," making them a natural community of shared interest.[41] Therefore, I concluded that a new Congressional District, proposed CD5, could be drawn connecting communities between Washington, D.C. and Baltimore.[42]

34. Prof. Lichtman ignores most of my analysis and opinions in *Fletcher*, and claims that I concluded

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[37] Morrison Aff. at ¶ 3, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 16, 2011) (ECF No. 48-3).

[38] Morrison Decl. at ¶¶ 6-14, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 7, 2011) (ECF No. 43-18).

[39] Morrison Decl. at ¶¶ 18-22, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 7, 2011) (ECF No. 43-18).

[40] *Id.* at ¶¶ 23-29.

[41] Morrison Aff. at ¶ 1, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 16, 2011) (ECF No. 48-3).

[42] *Id.* at ¶ 9.

that a new Congressional district could be drawn based on transportation linkages alone.[43] That is incorrect. As I noted above, by the scientific standards in my field, an established community of interest does not exist in an area simply because a highway runs through that area.

35. In this case, my analysis and conclusions are distinct from those offered in *Fletcher*. In *Fletcher*, I called attention to demographic trends in minority populations in suburban communities between Baltimore and Washington, D.C.[44] In this case, I call attention to the massive interchange of territory and splitting of Census Places in the post-2010 reconfiguration of CD 6 and considered whether it can possibly be justified by demographic data and consistent with traditional redistricting principles.[45]

36. Prof. Lichtman also appears to misunderstand the scope of my Initial Report. Prof. Lichtman argues that I "acknowledge[d] that the proper inquiry is statewide."[46] This is not the case. In my Initial Report, I stated clearly that I was retained to examine "whether the boundaries of the Sixth Congressional District that were adopted by the Maryland General Assembly in 2011 . . . can be explained by legitimate districting considerations," such as "maintenance of communities of interest."[47] Therefore, contrary to Prof. Lichtman's claim, I do not state or

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[43] Lichtman Rep. at 12-15.

[44] Morrison Decl. at ¶¶ 6-29, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 7, 2011) (ECF No. 43-18).

[45] Initial Rep. at ¶ 140.

[46] Lichtman Rep. at 3.

[47] Initial Rep. at ¶ 11.

otherwise acknowledge that the proper inquiry in this case is statewide.

VIII. Conclusion

37. Prof. Lichtman, Secretary Willis, and Mr. Cooper do not criticize the demographic methodology, analysis, or conclusions expressed in my Initial Report. Secretary Willis and Mr. Cooper do not offer any criticism of my Initial Report in their submissions. Prof. Lichtman offers no criticism of the key conclusions expressed in my Initial Report. Instead, Prof. Lichtman makes the unfounded claim that my demographic model is unscientific and biased, and he mischaracterizes the conclusions that I reached in this case and in *Fletcher*.

38. None of Prof. Lichtman's arguments are sufficient to show that there was a legitimate demographic justification, based in traditional redistricting principles, for the massive interchange of territory and voters that created the new Sixth Congressional District in 2011.

Date: May 22, 2017

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Dr. Peter A. Morrison

STATE OF MARYLAND
DEPARTMENT OF PLANNING

REDISTRICTING COMMITTEE MEETING
PUBLIC HEARING
CONGRESSIONAL REDISTRICTING PLAN
AND LEGISLATIVE REDISTRICTING PLAN

Frederick County – Hood College
JULY 23, 2011 2:00 P.M.

COMMITTEE MEMBERS:
CHAIRPERSON JEAN HITCHCOCK
PRESIDENT MIKE MILLER
SPEAKER MIKE BUSH
DELEGATE JAMES KING [1]

SPEAKERS:
SENATOR JIM GETTY
JOE KELLY
SENATOR DAVID BRINKLEY
ROBERT KRESSLEIN
DAN RUPLI
MYRNA WHITWORTH
ANDREW DUCK
BOYCE RENSBERGER
TOM SLATER
DELEGATE SUE HECHT

* * *

[2] Congressional District 6. We would appreciate being redesigned in Congressional District 6, but at the most, keep the county together in one Congressional District aligned with Western Maryland. Thank you very much.

MADAME CHAIRPERSON: Okay. Thank you, Senator. Mr. Joe Kelly. Mr. Kelly?

MR. KELLY: I'm Joe Kelly. I want to thank you guys for all being here today. Thanks for giving us an opportunity to speak.

MADAME CHAIRPERSON: Okay.

MR. KELLY: I want to speak a little bit on the Congressional District, and on also the Legislation Districts. Basically, the Congressional Districts throughout the state, we'd like to see more balance. You have some districts in the state that are balanced between the two major parties of like 80 to 20, and then you have—out here in Western Maryland, it's—we—in the Sixth District, we have [14] a Congressman who has been elected and been protected pretty much with the vote of—you know—of going the other way. And what I'm saying is—what I'm saying is, I'd like to make sure that the Sixth Congressional District is a district that is more of a toss-up, that we would have a chance to—you know—have a good race between two quality candidates and with both of them having the ability to get elected on their—not so—rather than what party they belong to, but what they're presenting to the people—to the district, and that's not the case out here right now.

The other thing is, on the Legislative Districts, I live in Jefferson, which is in the District 3 Senate. The Senate Districts are very good. I don't have any problem they way they're designed, but I do have a problem with the delegates breaking out, where you have 2B and—or 3B and 3A, one of them having two delegates, and the other one [15] only having one delegate. It's kind of like those people who are in the area where you have two delegates, they're getting a lit bit more—they have two people to speak for them down in the—and we're all from Frederick County, yet they're getting

like two people to speak for them down in Annapolis, while out in Jefferson, we're represented by one delegate. I think a Legislative District that has three delegates in it, but when you're all in the same county like this, there is a little bit right now that's in Washington County in that district, but the majority of those people are all in Frederick County. We should all have an equal vote—an equal chance to vote for people in, so make it a three-district rather than a two and a one split. Thank you.

MADAME CHAIRPERSON: All right. Thank you. Our next speaker is Senator Brinkley.

SENATOR BRINKLEY: Good afternoon.

MADAME CHAIRPERSON: Good afternoon,

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[21] communities, and I think bring all the representatives together on that. And again, I think three-member delegate seats would certainly be appropriate, too. Thank you.

MADAME CHAIRPERSON: All right. Thank you, Senator. Our next speaker is Bob Kresslein.

MR. KRESSLEIN: Good afternoon, Madame Chairman—Woman and Speaker, Mr. President, Delegate. My name's Bob Kresslein. I live in Middletown, Maryland. I am involved with the state Democratic party, but I'm here speaking on my own behalf today. I'd like to address two points. First, with respect to the Congressional districting, we'd like—I'd like to see you consider a couple of different factors. One is, sort of the communities of interest that we have. Senator Brinkley indicated—you know—if you look at Carroll County and west, there's a lot of similarity, but I would also posit that if you go south and east, you're going to find a [22] lot of things in common. If you look at, historically, upper Montgomery County, look toward Frederick,

for many, many years, that area has picked up quite a lot of population. And if you look at transportation patterns, you'll see that—you know—70 and 270 combine right here in Frederick County. And if you're on that road every day going to work, you know there's an awful lot of people from Washington County, even into Pennsylvania and West Virginia and Virginia that get on that road and go on into Montgomery County to work or into Washington, D.C. metropolitan area.

So if you look at the way people live and the orientation that they have geographically, in the state, I would say that northern Montgomery County would be a good place to—if you're going to move the district lines. Also, if you look at media markets, I mean, one of the things that you have in a Congressional campaign is the ability to communicate [23] with voters. Those of us here in Frederick County and west primarily in our media from Washington, D.C. market, if you look—where, if you've got a satellite T.V., you're pretty much getting channels 4, 9, and 7. That's what you're going to get your local news. Many more people get the Washington Post than the Baltimore Sun. There are a lot of Redskin fans out here, but there's a lot of Ravens fans, too.

So, I think if you look—you've got the Mark train that goes right down the river, so I think if you look at the Congressional District, you'll see that, certainly, when you compare that to upper Baltimore County and Harford County, and with the population changes, and you're going to have to pick up or move that line somewhere, where are you going to move it, over to Cecil County? Then, you're going to have basically a district that runs from Philadelphia to Pittsburgh along the Mason Dixon Line, and I mean, that's kind of—I don't know that we have a lot of [24] communities of interest in that regard. So, I would ask you to try to make the

district a little bit more compact, as opposed to being as spread out as it is, to take those things into account.

With respect to Legislative Districts, I think it's been stated by the Senator and Delegate—the Senators that, certainly, to the extent that you can keep the Senate Districts within the county lines, I think I would agree with that wholeheartedly. District 3 is—probably got more excess population in it than almost any Senate District in the state at this point, so that district is probably going to be compact—somewhat more compact, and that ought to be Senate around Frederick City. And I think as Mr. Kelly said, a three-member district makes sense. You may want to consider with District 4, like they mentioned earlier, to keep that in Frederick County, but how that's aligned, whether or not it makes sense to have single-member districts for District 4, it [25] might be a consideration.

So I appreciate your consideration, and welcome to Frederick County.

MADAME CHAIRPERSON: Thank you. Mr. Dan Rupli?

MR. RUPLI: Madame Chair—

MADAME CHAIRPERSON: Good afternoon.

MR. RUPLI: President Miller, Mr. Speaker, Delegate King. I'm Dan Rupli. I live here in the county, and I had the opportunity to actually run in this district in 1976--1978. It seems like a long time ago, and it's kind of ironic to remember that in those days, there was a parallel to what we have today, only it was kind of 180 degrees out of whack. In those days, if you were nominated by the Democratic party, you were almost automatically going to be the Congressional representative from the six Congressional Districts. In fact, in 1978, when I ran, the Republicans didn't field a nominee. They [26] were represented by a homeless man.

Today, it seems like we flipped the other way, and one of the reasons for that, I think, is the configuration of the district. There is no community of interest between Harford County and Garrett County. There is very little community of interest between Allegany and Carroll. You know, in spite of how we like to characterize our state, we can say, "Okay, maybe there's a conservative consensus." I don't even believe that. This district was once represented by David J. Lewis, who is one of the architects of the new deal and one of Roosevelt's favorite Congressmen, one of the people who wrote the Worker's Compensation law and contributed to the Social Security Act. So this is a district of largely working people.

I think the current alignment is that we have a district here where the incumbent can kind of put the people to sleep. There is no community of interest either in—or a shared media that reaches [27] the district. We're kind of a patchwork, and I would like very much to see the district go into northern Montgomery County, and I also think it would be very instructive, and I would encourage you, in your future meetings, to have a suggested map of what this district might look like under what is being considered. These things rarely happen in a vacuum. There are all kinds of political considerations made when we redistrict; that's a fact. I think we ought to acknowledge that with transparency, and let us have a look, so that we can see what we're considering as an alternative to the current district. Thank you.

MADAME CHAIRPERSON: All right. Thank you. Don DeArmon?

MR. DeARMON: Hello. Thanks for coming to Frederick today. I want to comment just on the Congressional Redistricting. I have sort of one macro thought and one micro thought I want to share with you. If we

were to describe a country, maybe an ally [28] of ours, a developing country, where the most numerous house of the legislature routinely, more than 90 percent of the incumbents were re-elected, we would think, "Well, geez, that's not a very Democratic system that they have there." Though, that's the case here in the United States, and in fact, in the last 13 election cycles, the House of Representatives has—over 95 percent of the incumbents that ran for officer were re-elected, and that means that—and there have even been three changes in party during that time. So, my macro thought is that, you have a chance here, and you certainly can't do it nationwide, but to create competitive districts. And to the extent that you can create competitive districts, I think you should try to create competitive districts. I think that engages the public, it makes voters more likely to come out and vote, it makes the electorate more likely to take to—take an interest in public affairs, and so try to create competitive districts. [29]

When it comes to the Sixth Congressional District, I was the nominee for my party in the 2000—2002 cycle, so I ran in the district when it was constituted as six counties, and ran in a district where it was constituted as eight counties. So the start of the Sixth District is pretty easy, with Garrett, Allegany, Washington and Frederick, you've got a nucleus there, and then it's just a question which direction you go. Are you going to go east, or are you going to go southeast, or are you going to go south? Having campaigned in both, I have to tell you that my sense is, especially since the lines were drawn after the 2000 census, I think if you took a poll in upper Harford County, Baltimore Counties and the section of Montgomery County that's in our Congressional District, a very low percentage of

those people would actually understand that they're residing in the Sixth Congressional District.

In fact, I thought it was humorous the other [30] day. I—Barry Rascovar, in the Gazette, actually mischaracterized the district, and it was interesting to me that somebody who is as well-attuned to political affairs as that would not know, and I think it's because the district has changed. So my sense is, having campaigned in those areas, that when you start there, that Carroll, and certainly, Baltimore and Harford Counties, their orientation is much more toward a Baltimore County or Baltimore City direction. And Frederick is increasingly, and it's—as Bob Kresslein pointed out, we're heading southeast, and our orientation is toward Montgomery County.

I think that so many things are done in the state or county centric, and so you need to come up with a minimum number of counties for this district, and that our orientation, once you start with those four counties, if at all possible, your orientation should be to go east into either Howard, or go southeast into Montgomery Counties, to the greatest [31] extent possible, and leave Montgomery—excuse me—leave Harford, Baltimore, and even portions of Carroll for a Baltimore-oriented district. Thank you very much.

MADAME CHAIRPERSON: Thank you. Myrna Whitworth? Ms. Whitworth? Okay.

MS. WHITWORTH: Good afternoon.

MADAME CHAIRPERSON: Good afternoon.

MS. WHITWORTH: I'm speaking to you very much as a partisan Democrat. I rep—I'm chair of the Democratic party here in Frederick County, and I'm speaking from that perspective. My job is to turn Frederick blue and hopefully the Sixth Congressional District along with it. I have been here a very short time, only

nine years, which, in Frederick County, is only yesterday. I come from the Fifth Congressional and Steny Hoyer. And believe me, it's a lot easier being a Democrat in Prince George's County than it is here in Frederick County. However, we are making [32] strides. We are building the party. We have an active volunteer organization, and we expect to make inroads, and your decisions here that you present to the Governor will have a large impact on how well we do.

In 2010, we, like so many others, didn't do well. But, as I say, we are growing the party, and we're prepared to work very hard in 2012. But we have had problems with trying to get Congressional candidates elected, particularly since the 2002 redistricting. And despite heroic efforts by our Congressional candidates, they have been at a severe disadvantage. And because of that, they have not received the support of the state or national party. And we also feel that it has negatively impacted down ballot candidates for us.

I also understand that you and this commission are looking at two factors, diversity and national natural and political boundaries or—and I [33] strongly believe that if you look at those, you will find that our current configuration, as others here today have indicated, makes little sense. Historic—right now, Frederick is the gateway to Western Maryland. It's the largest population center, and among Frederick County residents are those people from Urbana, who very much look south. Frederick County, many of the people here look south, go down the 270 corridor and have businesses and jobs in the Greater Washington Metropolitan area. And so, to look at Frederick and west, as well as to look at Frederick south, gives a much more natural boundary to what the Sixth Congressional District should look like.

In terms of diversity, no Sixth Congressional District is going to be representative of the state. It's just a matter of fact. But let me just give you one statistic, if I may. If you look at Carroll County, for instance, if you would lob off Carroll County and Northern Baltimore and Northern [34] Harford County, you would have a better chance of breaching the diversity that we are—you hopefully are looking at. Carroll County, for instance, if you look at it, is a 92.9 percent white population in a state that's only 48.2 percent white. The African American population in Carroll County is only 3.2, with a state average of 29.4. The Hispanic population is 2.6, the Asian population is 1.4, both well below the state average. I'm not suggesting that Frederick County is a whole lot better, but I do know that looking to the northeast of the state will not improve that diversity. Looking to the south will, and I hope you will take into consideration those aspects as you come up with your recommendations. Give us a fighting chance to win, to work and to change the composition of the Sixth Congressional District. Thank you.

MADAME CHAIRPERSON: Thank you. Chris Huckenpoler (phonetic). Is—okay. Chris Huckenpoler? Unless I'm not pronouncing that person's [35] name correctly. Okay, let's move on to Andrew Duck.

MR. DUCK: First of all, thank you for coming to Frederick. I also saw you out in Hancock this morning. I appreciate you coming out to Western Maryland and taking our input. I speak to you—

MADAME CHAIRPERSON: Excuse me—you know - - they're asking me to have you pull that out and speak directly into it, because we are getting—

MR. DUCK: Is this better?

MADAME CHAIRPERSON:—a record of it.

MR. DUCK: Well, I was just thanking you for coming here. I speak to you today as someone who has run for Congress in the district as it is currently configured, been the nominee twice. And so, for the last six years, I have gone across the Sixth District of Maryland, all the way from Friendsville and Garrett County to Dublin and Harford County, and when it comes to communities of interest, those two communities have nothing really in common. The folks in Garrett County [36] are not even in the Chesapeake Bay drainage area. They're—they get very mad about the flush tax, because they're trying to clean up the Chesapeake Bay, when their sewage flows out through the Mississippi.

The folks in Harford County are very much concerned about the bay. They live right next to it. The differences between mountain Maryland and even central Maryland are vast, and these district—this district, because it's over 220 miles east to west, makes it very difficult logistically for one Congressman to represent that whole district. It makes it difficult for a candidate to reach out to voters across that district. Voter contact is particularly difficult in Harford and Baltimore County, because those voters who are in the northern part of that county have their center of life in Baltimore. And if you're trying to do an event where you're doing voter contact, you don't contact voters there, because they're all down in Baltimore. You go [37] to Baltimore to contact them, you're contacting more out-of-district voters than in-district voters. So the way that those counties are split makes it very problematic. And so, I would encourage they be organized into a district that is more suitable to keep those communities together with the Baltimore community.

Carroll County is also interesting, and I note that even in your map of Legislative Districts, you have the western part of Carroll County shown here with West-

ern Maryland, but not the eastern part. And I think that that's reflective of the pattern of life of the people who live in Carroll County. The folks on the eastern side live in—they work in Baltimore, live in Carroll County, and so they really are very different from the folks in the western half of Carroll County. This is what I've found as I've gone out and talked to people.

Frederick and Washington County have really [38] become part of the Washington suburbs, and I think, as such, the community of interest makes it more relevant for them to be lumped with Montgomery County than with people from Harford or Baltimore County. So I think, both in terms of making it viable for someone to reach the voters, and in terms of better representing the population, it would make more sense to re-orient the district to include more of Montgomery County and less—and none of Harford and Baltimore and less of Carroll, as you put those communities in with the Baltimore County area that they are naturally a part of.

Those are my comments. Thank you for your opportunity to speak.

MADAME CHAIRPERSON: All right. Thank you. Holly House? Holly House? Going once, twice. I think this is Boyce Rensberger? Did I pronounce your name correctly, sir?

MR. RENSBERGER: Closer than most people get [39] it. Yes, that's great. Thank you.

MADAME CHAIRPERSON: Okay.

MR. RENSBERGER: Yeah, my name is Boyce Rensberger. I first lived in Frederick County in 1981 in Urbana when it did not deserve that name at all. It wasn't urban in any sense. It was—

MADAME CHAIRPERSON: Right.

MR. RENSBERGER:—there were just about a dozen houses there.

MADAME CHAIRPERSON: Oh, they're going to tell you to—

MR. RENSBERGER: Oh, sorry, yeah. Nobody else is going to like it at this height.

MALE VOICE: Get close.

MR. RENSBERGER: Yeah, okay, I'll get very close. When I got to Urbana in 1981, there were only about a dozen houses. After a few years, I moved away for work and family reasons. Just moved back three years ago, to a place north of Woodsboro, in a town [40] called New Midway, and looked at Urbana, and the county population has changed so drastically, the area around Urbana, that it doesn't seem like the same county. And I've—so I want to speak in favor of a redrawing of District 6 boundaries so that they go down and include more of the interest of the Urbana-ites, the folks that live in Urbana, if I can call them that, and also to recognize demographic trends that are occurring and surely will accelerate through the next census. The city of Frederick's the second largest city in the state. It's majority Democrat.

All of Frederick County looks to our city as its center of its cultural life. It's a very vibrant city, lots of great reasons to live here and visit here. I know of couples from Boston and New York who looked for places to retire, and they—one of them in particular told me they did some searches, looked at surveys asking what you want in a retirement community, and the surveys consistently pointed to [41] Frederick County and Frederick City. They moved down here, and then they were shocked to realize that, in a city as sophisticated as Frederick, their politics weren't represented at all at the national level, and I'm just speaking about Con-

gressional Districts here. I—so it's—you know—the district lines that's drawn now give it a population distribution that is very unlike that of the reason that so many people are being drawn to Frederick—Frederick County and City.

We live in a republic, a representative democracy, and yet our representative in the Congress is not representative of the kinds of people who are choosing to live in Frederick County, and I think that's something that ought to be changed. They feel that their interest, their feelings and so on are being shut out of the process. So I'd urge you to realign the boundaries of District 6 so that it's demographics come closer to representing what are becoming and what we certainly will become even more [42] over the next few years, and maybe even more—because we'd like to attract more of those retirees who are coming here looking for the kind of good life that Frederick can offer. Thank you.

MADAME CHAIRPERSON: Thank you, thank you. Mr. Tom Slater?

MR. SLATER: Thank you, and good morning—or good afternoon to all of you. I'm going to try to read my comments, so that I can make sure I get them in within five minutes, but give me a little leeway. What I want to do is look at things from a historical perspective. And so, you know that the current Sixth District consists of Allegany, Carroll, Frederick, Washington and Garrett Counties, all of those counties, and parts of Baltimore County, Harford and Montgomery. That current district was created after the 2000 census, and Harford County has only been included in the Sixth Congressional District since that time, since 2000. [43]

Going backwards, the 1990 census produced the Sixth District that included all of those same five counties in the western part, plus Howard County. And that

was when Congressman Bartlett (phonetic) was elected in 1992 after incumbent Beverly Byron (phonetic) was defeated in the Democratic primary. The 1980 census, and subsequent redistricting, resulted in a Sixth District that included those five counties and parts of Howard and Montgomery County. With the 70s census and redistricting, a small portion of Baltimore County and Montgomery County was added to those five western-most counties. Goodloe Byron was elected in 1970 from the 60 census lines, and then continued to be elected with this configuration until he died in 1978 when he was succeeded by his wife, Beverly.

The 1960s, there were two Congressional redistrictings, the first included the five counties that I've mentioned, a small part of Baltimore County. [44] And then, in '62 and '64, the Congressional District included all of Allegany, Frederick, Garrett, Washington, and for the first time, all of Montgomery County, and that was when [Charles] 'Mac' Mathias and Glenn Beall represented the district. Note that portions of Baltimore County have been included in the Sixth Congressional District for only about 26 years, which, in the whole history of redistricting, is not a long period of time. And I'm not going to go decade by decade all the way back to 1789, because that would take too long. But before I'm thinking about this, I thought about a book that I read, Walter Johnson, Baseball's Big Train.

Now, you're wondering, "What does this have to do with redistricting?" Walter Johnson, as most of you may know, was the original member of the baseball hall of fame. What you may—and this book is written by his grandson, Henry Thomas. And if you're a baseball fan, you want to read this book. It's a [45] really good book. I see the Speaker shaking his head.

SPEAKER: I've read it.

MR. SLATER: He's probably read it.

SPEAKER: He was also a Commissioner.

MR. SLATER: I'm getting to that, because I had the pleasure of meeting Mr. Thomas, and he had signed the book for me. And when he signed it, he said, "To Tom, who lives in Walter Johnson territory. Best wishes always." Now, at that time, I lived in Adamstown in Frederick County when he wrote that in 1996. What does he mean by Walter Johnson territory? I guess it could mean the areas that supported the senators, which would probably be true. But on pages 338 to 340, he describes Walter Johnson's run for Congress, and some of you may not have known this. Walter Johnson ran for Congress for Montgomery County in the Sixth Congressional District in 1940. He ran against incumbent Woodrow Byron, Goodloe Byron's father, and Beverly Byron's father-in-law. So Walter [46] Johnson territory could refer to the Sixth Congressional District, including all of Montgomery County.

Walter Johnson, at that time, as the Speaker said, was a Commissioner, a County Commissioner from Frederick County. Interestingly enough, as described by his grandson, he lost that election, as follows: "Johnson's alliance with the Republican platform of isolationism and opposition to Roosevelt's big government dictatorship swayed the heavily Democratic electorate against him, giving the victory to the able and popular, young incumbent." Another one—another Congressman from this district, when it included Montgomery, as mentioned by Dan Rupli, was David J. Lewis. He was William Byron's successor. He served from 1931 to '41, and then previously from '11 to '17, 1911 to '17, and he was the main sponsor of Social Security, and I put in here the unemployment insurance law, but I think Dan's right. It was probably [47] Worker's Comp.

The important point that I want to make is that going back to the very first Congressional districting—and I didn't say redistricting—districting—in 1789, Montgomery County has historically been a part of the same Congressional District as Frederick and the more western counties. From 1871 until 1966, almost 100 years, the Sixth Congressional District consisted solely of Frederick, Washington, Allegany, Garrett and Montgomery County, all of Montgomery County. So historically, Montgomery County's been connected with Western Maryland. Carroll County has been a part of the same Congressional District as Frederick for 81 out of 174 years, so less than half of the time. Carroll County's more often shared its Congressional District with neighboring Baltimore County, and I agree with those who said earlier that that's where the direction ought to go for Carroll County. [48]

Frederick County and the counties west of Frederick have more in common with Montgomery County than they do with Carroll, Baltimore, or Harford. The historical record supports the inclusion of at least a portion of Montgomery County to continue to be a part of the Sixth Congressional District. And I had said I was going to talk about General Assembly redistricting, but I'm out of time. Thank you.

MADAME CHAIRPERSON: Thank you. Okay, thank you. Delegate Sue Hecht?

DELEGATE HECHT: Thank you, Madame Chair, Mr. President, Mr. Speaker and Delegate King, it's nice to see you again. I did ask originally for the three minutes, but I would ask if I can extend that, because I do have some information, having served in the General Assembly for two terms—for three terms, so could I ask for the five minutes?

MADAME CHAIRPERSON: Yeah, the five minutes would be—you're going to speak to both of them? [49]

DELEGATE HECHT: Both, yes.

MADAME CHAIRPERSON: Okay, five minutes.

DELEGATE HECHT: Thank you.

MADAME CHAIRPERSON: Okay, all right.

DELEGATE HECHT: I believe I come to you with a unique perspective and background, as a retired state legislator serving District 3, Frederick and Washington Counties for eight years, and then after that, after the redistricting, serving District 3A and Frederick County for four years. While Frederick County is my county of choice since 1975, my county of birth is Montgomery County. I was born, raised, educated, employed, became a mother—and a wife and a mother, I should say it that way, in Montgomery County for nearly 30 years. So in the 1970s, my young family, as thousands of people, especially the baby boomers, moved up north, up west, north and west on the 270 corridor, so we could afford the American dream; i.e., a house and a little patch of land. [50] During the 1970s and continuing until the economic downturn recently, Washington—Frederick and Washington County have seen a huge increase of Maryland citizens migrating, mostly from the Washington Metropolitan Area, especially Montgomery County, as we did.

It's my experience that Frederick County and the greater Hagerstown area, especially along the I-270 corridor, increasingly identifies itself with the exurbia of the Washington D.C., not Baltimore City and its suburbs. Even though Frederick is in the enviable position of sitting 50 miles as an apex of both Washington and Baltimore City triangle, the more new Western Maryland residents maintain close ties with Montgomery County and D.C. area, not as much with the Balti-

more. Let me give you just a couple of examples. We've heard about the thousands of commuters that come down I-270 and Route 15, coming through Frederick. They're most of the majority—vast majority of those [51] folks are going to jobs in the Washington Metropolitan Area, not Baltimore. We've heard about our mass transit links that go to Washington through the Mark, not Baltimore. Frederick is part of the Greater Washington initiative and an affiliate of the Greater Washington Board of Trade, marketing the Greater Washington Area.

We are not included in the similar Greater Baltimore initiative, even though we love Don Fry (phonetic). Frederick is part of WASHCOG, or the Washington Council of Governments, a regional organization of Washington area local governments surrounding our nation's capital, plus members in the Maryland and Virginia legislatures. The Bureau of Labor statistics and the U.S. standard—U.S. Census Bureau count Frederick among the Bethesda, Rockville, Frederick, Maryland, Metropolitan Division.

The years that I served in the General Assembly, I worked closely with the folks in [52] Montgomery County on economic development. One example is a former County Executive Doug Duncan, and I did develop the Frederick—excuse me—the Potomac Technology Corridor that runs from Montgomery County up 270, up I-66, as a way to expand our biotechnology business, and it was folks from Montgomery County that helped make sure that when MedImmune and Montgomery County had to expand and couldn't find a place in Montgomery County, Doug Duncan said, "There is no such thing as county lines between Frederick and Wash—Frederick and Montgomery County," and made sure that MedImmune expanded here in Frederick County, not out of our state.

So those are just a couple of examples. So my suggestion, and I hope that we return Montgomery County—the upper part of Montgomery County, move it into Frederick County as it was before. Now, very quickly, I'd like to talk about the legislative state districts, because I have served as a state legislator [53] in two different districts, within two different sections. When I first was elected in '94, I was in an at-large district called District 3 that was Frederick and Washington County. There was three of us serving, and the way it was drawn, no Washington County resident could have a chance of winning that district. It was just too heavily populated in the Frederick area. It was hard to serve when you are serving in another county that has a very different reference. It has changed somewhat now that we are much more alike, but—and then, the next time when I ran, it was in a two-member district, mostly Frederick City and 3A, because of redistricting had drawn it.

So I would like to say if you can possibly make the population, the legislative population so that you are in their county, it is much better for the residents, it is easier to serve for the legislators, but mostly, it is more representative for [54] the people of those counties to have the opportunity to have somebody that lives and works and will; serve them within their county. Thank you very much.

MADAME CHAIRPERSON: Thank you. That comes to the end of the people who have signed up to speak. Ms. Janey, was there another sheet for anyone else?

FEMALE VOICE: No.

MADAME CHAIRPERSON: Okay. Assuming there is no one else who'd like—would like to have an opportunity to be heard, I want to thank the persons who did

make presentations. I'd like to thank all of you for coming out and participating in this process as an observer to see how government works. And with that, thank you very much. This brings us to the end of the hearing.

(Meeting was adjourned at 3:00 p.m.)

STATE OF MARYLAND
DEPARTMENT OF PLANNING
REDISTRICTING COMMITTEE MEETING
PUBLIC HEARING
CONGRESSIONAL REDISTRICTING PLAN
AND LEGISLATIVE REDISTRICTING PLAN

Washington County Middle-Hancock High School
JULY 23, 2011 11:00 A.M.

SPEAKERS:
HOWARD GORRELL
ELIZABETH PAUL
SENATOR CHRIS SHANK
KAYE ROBUCCI
SENATOR GEORGE EDWARDS

* * *

[14] Congressional districts are completely very important.

So, my final word, on (indiscernible) hearing. Do you have any questions?

MADAM CHAIRMAN: Thank you. Thank you so much. I'm sorry, no time is left. But I have your presentation. I have your presentation. Thank you.

Okay. Our next speaker will Ms. Elizabeth Paul. Good morning, Ms. Paul.

MS. PAUL: Hi. And I have a copy for you.

MADAM CHAIRMAN: Okay.

MS. PAUL: Good morning. I'm Elizabeth Paul. I'm going to talk about the Congressional District. I live in (indiscernible) and I'm Chair of the Washington County Democratic Central Committee.

We need a sixth Congressional District that's not a patchwork of odds and ends of the different counties, but rather one that makes sense and shares more than the Mason Dixon Line. This district currently spans a distance of, you know, 200 [15] miles across the northern part of the state. Unless the district is approached southeast instead, it's likely the population changes could push it all the way into Cecil County elongating the district even more.

When the State decides the population of Maryland, that just doesn't make sense. Until recently, you all heard that Montgomery County is part of our district and historically that region has had close ties to the Frederick area, as well as the western counties up here, and certainly more so than upper Baltimore and Harford County which were added in 2002.

Residents in the more populated parts of the sixth district are more aligned with Washington, D.C. suburbs by transportation routes such as I-270 and the MARC Commuter Trains, by employment in the D.C. Metro area and Northern Montgomery County as opposed to Baltimore suburbs or Harford County. We are linked by [16] media outlets including print and television.

For example, many more people subscribe to the Washington Post than the Baltimore Sun in this area. The TV markets include us in the Greater D.C. Metro

area and not Baltimore, unlike Carroll, upper Baltimore and Harford. The Potomac River and population along it is a more natural sixth district boundary to the Mason Dixon Line at this time. Please make the boundaries of the Sixth District more logical, creating a more unified region. Thank you.

MADAM CHAIRMAN: Thank you. And do you have a copy for me? Okay. Thank you.

MS. PAUL: I can get them and give them to you.

MADAM CHAIRMAN: All right. Our next speaker is Senator Chris Shank.

SENATOR SHANK: We have a man on the way here, too. Good morning, Madam Secretary and Mr. President, Mr. Speaker and Delegate. It's a pleasure

STATE OF MARYLAND
DEPARTMENT OF PLANNING
REDISTRICTING COMMITTEE MEETING
PUBLIC HEARING
CONGRESSIONAL REDISTRICTING PLAN
AND
LEGISLATIVE REDISTRICTING PLAN
Prince George's County - Prince George's Community College
July 25, 2011 7:00 P.M.

SPEAKERS:

MARCUS AFZALI
DAVE E. MORAN
DELEGATE MELONY GRIFFITH
TREVOR OTTS
PAT FLETCHER
JIM HENDERSON
DELEGATE AISHA BRAVEBOY
HEATHER OLSEN

TANYA HILL
YVETTE JARDIN
KAREN JO POPE-ONWUKWE
LEMAN JOHN AUNCHMAN
MYKEL HARRIS
JUNE WHITE DILLARD
BRIAN MORRIS
NICOLE WILLIAMS
JOSEPH KITCHEN
JUANITA MILLER
CHONYA JOHNSON
MARY MURPHY
STEVE WAUGH
DENNIS SERRETTE
DELEGATE MARVIN HOLMES
BOB ROSS
PHIL LEE
SHARON TAYLOR
SENATOR JOANE BENSON
LEN LUCCHI
CASEY LEWIS
TERRY SPEIGNER
MAYOR ANDREW FELLOWS

* * *

[53] black and Democrats, they'll never vote for him, without any regard for the fact that Congressman (indiscernible) doesn't have anything akin to our community. We may be city and suburban, they're country, oceanfront. Nothing alike.

So in closing, I'll just simply ask you to please avoid the lawsuits that will come and the disenchantment and disillusion. Do the right thing. It's never too late to do the right thing. And we will recognize good government when we see it.

MADAME CHAIRPERSON: June White Dillard.

MS. DILLARD: Good evening, Madame Chairman and members of the State Redistricting Commission. Thank you very much for coming to Prince George's County. Since the 2010 population, 2000 population was taken, 2010 shows an increase of more than five percent of the African American population statewide, making us about 30 percent of the total population in the State of Maryland. [54]

African Americans are grossly unrepresented, both in the United States Congress and in the General Assembly in Annapolis, and that's what we need to have remedied by your Commission. There should be 721,000 people in the district or the U.S. Congress. Prince George's County has now three representatives. We need to have two. We need to have Prince George's County shared between the 4th and the 5th Congressional Districts and Montgomery County have the 8th and the 6th Congressional Districts covered in Montgomery County and the 5th Congressional District extended into Charles County.

In terms of the state legislative districts, our population is 865,000 and we need approximately 122,000 per district. We need to have seven whole districts for Prince George's County, 21, 22, 24, 25, 26, and 27 and the last one would be 47. Twenty three needs to be incorporated into Anne Arundel County. Districts need to be compact and contiguous to [55] withstand any court challenge. They also need to be fair in the creation of new majority/minority districts for the federal and the state districts. Thank you for your time.

MADAME CHAIRPERSON: Thank you. Brian Morris?

MR. MORRIS: Good afternoon.

MADAME CHAIRPERSON: Good afternoon.

MR. MORRIS: Good evening, Madame Chair. Good evening, Committee members. Welcome to Prince George's County. I'm also representing Fannie Lou Hamer Political Action Committee. And just what everybody's saying here tonight, it seems like everybody's pretty much saying the same things. The population has changed and they want to see it evened out. They want to see everybody represented fairly.

MADAME CHAIRPERSON: Your name?

MR. MORRIS: Brian Morris.

MADAME CHAIRPERSON: Are you going to speak

* * *

So those are my concerns about the legislative districts. More importantly, I just really want to make sure that we (indiscernible) to what is Prince George's County and we cannot give up our representation in the House of Delegates or the State Senate. I do not see that as a way for us to move forward. Thank you.

MADAME CHAIRPERSON: Ms. Danita Boffolo? Danita Boffolo? Juanita Miller?

MS. MILLER: Good evening, Madame Chair and members of the Commission. Much of what I'm about to say has been reported, however, I will read it for the record and—

MADAME CHAIRPERSON: Both?

MS. MILLER: Yes, on both the congressional and legislative redistricting plans. The census figures released on February 9th, 2011, we feel that the black population in Maryland rose by 15.1 percent to over 1.7 million and that African Americans now [68] make up roughly one third of the state's total population.

As the state's demographics continue to change, we must, we must leave an opportunity for a more diverse

delegation reflective of our state in the future. This population change will have a significant impact on the new congressional districts and state legislative districts.

Goals that I'm recommending on behalf of my constituency as a community advocate. The goals for the Maryland congressional redistricting plan are preserve and strengthen the two majority African American congressional districts and create a future opportunity for a third minority congressional representative by maintaining the integrity of the 5th Congressional District, which currently has a Democratic voting age population of 57.62 percent. As an educator, I don't talk when the children talk, so once I have everybody's attention, I will continue. [69]

The increase in population in this district is largely a result of the increase of African Americans in Prince George's and Charles County. Maps should not be drawn to reduce the African American or—the African American vote or percentage in the 5th Congressional District.

The second goal should be to remove the 8th Congressional District from parts of Prince George's County to allow for a more compact, contiguous 4th Congressional District that does not stretch to the border of Frederick and contains communities that have more in common.

And the third goal, prevent other legislative districts from reaching into Prince George's County, which would have the effect of diluting the minority voting strength and minority voting percentages in Congressional Districts 4 and 5. In particular, there has been discussion about bringing the 1st, 3rd, and/or 7th Congressional [70] Districts into the county. We strongly oppose that approach.

Goals for the state legislative redistricting plan. Provide state legislative districts that will achieve the goal of having more opportunity for African Americans to be elected to the state legislature in proportion to their population size in the state, 30 percent House, 42 African American members, and 30 percent of the Senate, 14 members.

The second goal is prevent the dilution of African American voters by not allowing multiple legislative districts to cross jurisdictional boundaries. The 21st legislative district should move out of Anne Arundel County and pick up part of South Laurel and Northern Bowie that are currently in District 23, which is overpopulated.

The 23rd District not be extended into Crofton, but should be made in Bowie, Mitchellville, [71] Glen Dale, Kettering, and parts of Upper Marlboro, as it states. Further, the 23rd District should not be split into A and B on the House side. It should become one whole district with three delegates.

Number four, blacks should not be packed into the 24th, 25th, and 26th Districts because the black population has grown to over 64 percent of Prince George's County, while the white population shrunk to 15 percent and Hispanic is at 15 percent.

The fifth goal and the final one that I'm going to present to you this evening, the 47th and 22nd districts must be reconfigured to become more contiguous and contain more communities that have similar interests. Thank you for your attention and time.

MADAME CHAIRPERSON: Chonya Johnson. (Indiscernible.) Laurel. Live in Laurel.

MS. JOHNSON: Yes.

MADAME CHAIRPERSON: And your name is Chonya

* * *

Prince George's County has in the U.S. Capital have the opportunity to continue in those two roles. We're very blessed to have very good, very excellent representatives. And whatever happens, I think we need to make sure we have those two representatives have the opportunity to represent Prince George's County in the U.S. House of Representatives. Thank you very much.

MADAME CHAIRPERSON: Casey Lewis. And then, after that, Terry Speigner.

MS. LEWIS: Yes. Good evening, Madame Chair and those on the Commission. I'm Casey Lewis. I'm a realtor in Prince George's County and I totally agree with what Delegate Braveboy said and what Sharon Taylor said.

I think we should keep Prince George's compact. I would love to stay in the 23rd District. That's my district. I've been there for quite some time. I've educated most of my constituents around [101] Prince George's County and most of the realtors are my clients who are builders to let them know about the redistricting process. A lot of them are here tonight. I disagree with the lady who said 23 should get Anne Arundel County. No, it shouldn't be. It should stay in Prince George's County.

I also agree with—there was somebody else here who said that we do want a compact, compact area and we do love Prince George's County. I would really pray that you would really look at how you redistrict this county and keep it as close to what it is right now. Thank you so much for your time.

MR. SPEIGNER: Good evening, Commissioners. I'm not going to say the same words that you've heard tonight about compact, contiguous. I'm not going to say

a word about communities with interests. But I think you understand that the people tonight want those things and I'm going to speak on the whole congressional and legislative. [102]

At the end of the day, I want everybody to understand that Prince George's County has changed tremendously over the last decade. We've increased our population by over 60,000 people, 27 municipalities that represent 27 percent of our population. Our CDPs and our incorporated areas, like Camp Springs, Mitchellville, Landover, places like Largo, Kettering, Lake Harbor, they represent 72 percent of our population. They're called CDPs, census designated places, and they deserve to be together in tightly knit districts.

These are people who are neighbors who have the same issues as the neighbors across the street from them and we do not want these communities, whether it is Chillum, which has over 33,000 people in it, which is larger than every municipality in Prince George's County with the exception of the City of Bowie. We do not want that community to be in more than one legislative—congressional district. [103]

I agree that it's time for Prince George's County to have only two congressional districts—

MADAME CHAIRPERSON: Do you need some help?

UNIDENTIFIED SPEAKER: Did you say three?

MR. LEWIS: Two. Two congressional districts. I say two. This is my testimony, so listen and I don't need any comments from you right now. Two congressional districts. Congressional District 45 should be in Prince George's. The 8th Congressional District I think really doesn't do anything other than use Prince George's to put another member of congress in it. I like Congressman Van Hollen very much but, at the end of

the day, all politics are local and, right now, we need to focus on our home turf and that's Prince George's County.

Congressional District 5 I would hope that it will stay mostly in Prince George's County, mostly the way it is. Congressional District 4, we should bring it out of Montgomery County mostly, put most of [104] it into Prince George's County, because that is where the heart of our district is. Most of Congressional District 4 is in Prince George's. We have about—I think about, oh, 60 percent of—enough congressional fodder to affect the outcome there, where 50 percent, almost 60 percent, of that is African American voters.

This is not about people. When I say people, it's not about the people that are in office. This is about the people who live, work, play, and pray in Prince George's County. This is about the citizens of Prince George's County. This is not about keeping a particular incumbent in office because incumbents come and incumbents go. But the people are going to be here and they're going to have issues that they want to be able to have to deal with in the future, setting up, you know, the future for their children and their (indiscernible). That's what this is about.

This is about the next ten years in Prince [105] George's County, whether we're going to stay the same, go backwards, or whether we're going to progress and join our neighbors in a great economy called the United States of America. We want to grow our county and we want our county to succeed.

The 27th Legislative District I would love that to stay in Prince George's County. It is almost 50 percent African American. (Indiscernible) a different time in Prince George's, or what used to be in Prince George's. It used to be in Prince George's but, at some point in

time, I think that someone who lives in Prince George's will actually represent the 27th Legislative District.

So I simply ask everyone don't cut off your nose to spite your face. Do not try to axe 27, Legislative District 27, out of Prince George's County. Don't try to axe the 5th Congressional District out of Prince George's County. The demographics are in the favor of the majority of the [106] people who live in Prince George's County.

At some point in time, it will become a district whereby (indiscernible) will represent the 5th Congressional District. It may not happen in two years. It may not happen in four years. But at some point in time, it will happen. So what we're looking for is do the right thing with the districts, do not change the demographics of the districts because the vibration patterns of people who live in this region are following those districts.

So that's what I would encourage the Commission to do, is keep the fair in the county, keep the demographics and the population numbers the same as it relates to the racial base, keep the 4th in the county, (indiscernible) in the county, take the 8th out of the county. (Indiscernible) Congressman Van Hollen, but it's time to put Prince George's County back together, put our neighborhoods back together, put our communities back together.

STATE OF MARYLAND
DEPARTMENT OF PLANNING

REDISTRICTING COMMITTEE MEETING
PUBLIC HEARING
CONGRESSIONAL REDISTRICTING PLAN
AND
LEGISLATIVE REDISTRICTING PLAN

Montgomery County - Shady Grove
August 10, 2011 7:00 P.M.

SPEAKERS:
CHIP BERMAN
DON O'NEILL
DOUG MAINWARING
STEPHEN MCLAUGHLIN
JOSEPH DOANE
STEVE SHAPIRO
LYNN CREECY
DELEGATE ANA SOL GUTIERREZ

* * *

[19] more or less Golden Rule basis, as one of the earlier speakers alluded to, retribution is probably going to be forthcoming.

And then, finally, there are laws, federal laws, that say that these districts should be relatively compact and, unless they are made compact, the courts may have to address the wrong that's been done. Thank you.

MADAME CHAIRPERSON: Mr. Steve Shapiro. And then followed by Lynn Creecy.

MR. SHAPIRO: Good evening, Madame Chair and members of the Committee.

MADAME CHAIRPERSON: Good evening.

MR. SHAPIRO: My name is Steve Shapiro. I live in Bethesda. A few years back during previous redistrictings, I lived in Silver Spring right along the Prince George's-Montgomery County border. And at that time, I had similar concerns that you've heard tonight to the way the current 4th District was [20] established as far as a relatively small piece of ribbon in Montgomery County was joined by a ribbon to a piece, larger piece, in central Prince George's County. That basically disenfranchised many of us who lived in the smaller Montgomery County section.

And I was particularly concerned, not that we were being paired with Prince George's County, but that we were being paired with a part of Prince George's County that was not adjacent to where we lived. If we had been moved with our neighbors in Adelphi, Beltsville, Laurel, that would have been a much more compact, reasonable looking district than to merge us with areas much further to the south with a narrow ribbon.

I understand there are even maybe more egregious similar situations in the Baltimore region, more so than just in the Montgomery and Prince George's County area. But I urge the Committee, also, to try to establish a little bit more compactness. [21]

Ideally, Montgomery County, with its fairly large population, would have one district entirely within its borders and share about one half of a district with an adjoining part of the state. A reasonable option to do this would be to maybe take the western third of Montgomery County and pair it with Western Maryland, which, based on history and geography, would be a reasonable situation and one that existed several decades ago. Keeping the Montgomery section about equal in size to the Western Maryland section I think would keep it from being overly dominated by the Montgomery section and, thus, would be fair to the

Western Maryland residents, as well as to the Montgomery County residents.

And another option, if that wouldn't work, would be to take the eastern third of Montgomery County and pair it with its immediate neighbors adjacent to either Prince George's or Howard County. But in any event, one district in Montgomery and then [22] half of a district with immediate neighbors adjoining either to the west or to the east.

In some respects, the current congressional districts have made my job as a Democratic precinct chair a little bit too easy. As others have said, my candidates almost always win, at least in the general election. That's not necessarily a bad thing, but I am concerned that it has decreased turnout and interest a little bit. Most of the discussions in the primary where most of the candidates tend to agree and there is little or no discussion in the general, where the result is usually a foregone conclusion.

I live in precinct 77 now, which is in between Friendship Heights and Glen Echo, not too far from the Potomac River, and I'd be pleased to be part of that western third of Montgomery if that would be split into the Western Maryland district.

I'd also like to speak briefly about the legislative redistricting. A decade ago, I had [23] proposed a study looking at more single member House districts. As you all know, it's up to the Governor and the legislature whether to split the senate districts into one, two, or three pieces on a case by case basis. I believe that smaller districts would help reduce the size of elections and increase interest in the elections and, also, reduce the interest in slights.

In fairly homogenous districts, I do note that many of my neighbors disagree with that and are perfectly

comfortable having three at-large. However, I think the single member district concept is even more important in places where there is a fair amount of diversity within a district where there may be significant variations, either due to political affiliation, racial makeup, other demographics, that it may make sense to keep populations from being unfairly diluted by spreading some of the current state senate districts into more one or two member [24] districts.

So, in closing, I appreciate you being here to listen to our views tonight and hope that, even in consideration of the other factors that I know you need to consider, if keeping districts a little more compact and cohesive could be something in the equation. Thank you very much.

MADAME CHAIRPERSON: Thank you.

MS. CREECY: Good evening. My name is Lynn Creecy and I'm a resident of Olney, Maryland.

MADAME CHAIRPERSON: Okay.

MS. CREECY: 2012 marks the 200th anniversary of the War of 1812, which Maryland is commemorating on its license plates. 2012 is also the 200th anniversary of the first gerrymandered districts by Massachusetts Governor Elbridge Gerry. I urge Maryland to commemorate this anniversary by eliminating the tortuously drawn boundaries of Congressional District 4.

August 6, 2011 *Baltimore Sun* article

Democrats eyeing Western Maryland
By Annie Linskey, The Baltimore Sun

AUGUST 6, 2011, 7:45 PM | POINT OF ROCKS

Ed Coile and his husband are true-blue Democrats. But they were thinking about saving money, not their congressional representation, when they decided to move from Washington to conservative Frederick County last year.

"Politics just didn't play a role," said Coile, 52, after getting off the commuter train at the tiny red-brick MARC station in Western Maryland on the Virginia border. "This is where we could afford to buy a house."

Democratic strategists in this part of the state, however, are thinking an awful lot about transplants from the Washington area such as Coile and husband Barry Stampler.

The strategists see them as part of a steady northbound population migration that will color this part of the state more Democratic over time. They want to radically redraw Maryland's congressional map to transform the 6th District, which has sent conservative Republican Rep. Roscoe G. Bartlett to Washington for 10 terms, into a toss-up.

Or, in the words of Frederick County Democratic Chairwoman Myrna R. Whitworth, testifying at a recent redistricting hearing: "My job is to turn Frederick blue."

Conversations about maps will intensify over the next two months as Maryland politicians turn their attention to congressional redistricting, the once-a-decade process of adjusting political borders to accommodate changes in the state's population.

A five-member panel appointed by Democratic Gov. Martin O'Malley is crisscrossing the state to hear opinions about redistricting. The panel, which includes state Senate President Thomas V. Mike Miller and House Speaker Michael E. Busch — both Democrats— is charged with recommending a map to O'Malley.

O'Malley could submit that plan or a map of his own to the General Assembly, which will meet in special session this fall to approve new districts.

The 9 percent growth recorded in Maryland in the 2010 Census means the state will retain its eight seats in the House of Representatives. But that doesn't mean the Maryland delegation will remain static: Redrawing the borders could give the state's majority Democrats a chance to unseat one of the two Republicans—or at least make their re-election much more difficult.

Rep. Steny H. Hoyer, the No. 2 Democrat in the House, has hinted that freshman Rep. Andy Harris, the Baltimore County Republican who represents the 1st Congressional District, would be the target.

Adding Democrats to the district could give former Rep. Frank M. Kratovil Jr. a shot at taking back the seat he held from 2009 to 2011. Kratovil has said he would consider the shape of the district in deciding whether to run again.

But after a series of redistricting meetings, it is clear that there is no consensus on that idea. Leaders in Prince George's County, a rich potential source of Democratic voters, have made it clear that they don't want to be part of the 1st District, which now is made up of the Eastern Shore and parts of Baltimore, Anne Arundel and Harford counties.

Western Maryland Democrats, meanwhile, want the mapmakers to target Bartlett.

The Cook Political Report, a nonpartisan newsletter that tracks congressional and other elections, gives Maryland a 50-50 chance of drawing a new Democratic seat in the House.

Maryland is one of the few states nationwide in which Democrats have the power this year to redraw congressional districts in their favor. Republicans control the process in 18 states. Democrats oversee it in six. Others are either divided between the parties or use a nonpartisan commission.

With Republicans here largely sidelined—one of the five panel members is a former GOP lawmaker—the real argument in Maryland is between different segments of the Democratic Party.

At first blush, Western Maryland isn't an obvious place for Democrats to seek inroads.

The 6th District, made up of Allegany, Carroll, Frederick, Garrett and Washington counties plus parts of Baltimore, Harford and Montgomery counties, has been the most reliably Republican district in the state over the past two decades.

Even in years that were difficult for GOP candidates elsewhere, Bartlett, a member of the House Tea Party Caucus, has routinely won re-election by 20-point margins.

But Bartlett, 85, is a lackluster fundraiser, which has led some Democrats to argue that he would not have the means to introduce himself to a new group of voters should his district take a different shape.

Helping to fuel their optimism is the victory last fall by Democrat Ronald N. Young, a former Frederick mayor, over conservative Republican state Sen. Alex Mooney in Frederick and Washington counties.

Democratic Party strategists say the influx of 48,000 transplants from the capital area over the past decade is leading fast-growing Frederick County to tilt toward the politically liberal Washington suburbs.

About one-third of the 131,000 people who moved to Frederick County in the past 10 years came from Montgomery County, according to Internal Revenue Service data.

The MARC's Brunswick line, which runs from Washington's Union Station to Martinsburg, W.Va., has seen a 34 percent increase in train ridership in the past decade, and there are roughly 10,000 more cars per day on Interstate 270 than 10 years ago.

Nowhere is the growth more apparent than in the rolling developments in Urbana, the first exit off I-270 in Frederick County.

Ten years ago, local Realtor Mary Richeimer said, the community was "a tiny crossroads." Then a developer turned a stretch of corn and soy fields into The Villages of Urbana, a 3,000-unit planned community that includes hiking trails, tennis courts, two pools, a library and a shopping strip with a grocery store.

It's not the only one. Half an hour down the road is Brunswick Crossing, another gleaming development sprouting out of farmland.

"The county's population has changed so much," said Boyce Rensberger, a Democratic activist who spoke at the redistricting meeting.

The picture is disputed by Republicans, including the one who represents the district.

"I have a very rural, agricultural district," Bartlett said in a recent interview. "It has nothing to do with the suburbs of Washington. ... Small towns, volunteer fire companies."

Bartlett said redrawing his district to take away the Central Maryland portion and include more of Montgomery County would be "crazy."

"What in the heck relationship does Garrett County have to the Washington suburbs?" he said. "Or Allegany County or Washington County?"

One person who could benefit from a more Democratic 6th District is state Sen. Robert J. Garagiola, a Miller favorite who represents northern Montgomery County.

Garagiola said he's "watching closely" how the congressional district is being redrawn as he decides whether to challenge Bartlett.

"I would not run for the sake of running," Garagiola said. "If I ran, it would be to win."

A glance at the spaghetti-like tangle of congressional lines in Central Maryland shows that the state's Democratic mapmakers haven't minded cutting through communities to consolidate political power. And the Republican Party will have little voice in the process.

The current districts were drawn 10 years ago under then-Gov. Parris N. Glendening. He said in a recent interview that he was guided by two objectives: Keep the four influential Democrats from Maryland who were in office at the time and add more.

"There is no way to describe them other than political goals," Glendening said. "Redistricting, by definition, involves partisan politics."

He asked for a map that would flip two of the four seats held by Republicans from red to blue.

The "real challenge," said Glendening, was persuading the Democratic incumbents to accept districts that would be slightly more difficult to hold—a neces-

sary sacrifice to make the Republican districts more winnable.

"They were used to winning 70 percent of the vote and still wanted that," Glendening said. "We had to sit down with them and say, 'In order for [then-Baltimore County Executive C.A. Dutch Ruppersberger] to have a real running shot, you need to give up some of these areas.'"

In the end, Glendening's map did what he wanted. Ruppersberger beat Republican former Rep. Helen Delich Bentley in 2002 to win the district held until then by GOP Rep. Robert L. Ehrlich Jr., and Democratic state Sen. Chris Van Hollen beat Republican Rep. Constance A. Morella to give the Democrats six of the state's eight House seats.

Glendening had considered a plan to make Western Maryland more Democratic by pulling the district down into Montgomery County. But he decided against it, in part because it would have been difficult to draw without disrupting every other congressional district.

And that will be the challenge for mapmakers now: Reshaping the district would upset the delicate balance that has kept at least six Maryland Democrats in the House for each Congress of the past decade.

Altering the 1st District does not trigger the same domino effect in the rest of the state.

Raquel Guillory, a spokeswoman for O'Malley, said the governor is waiting to hear from the redistricting panel before he makes any decisions.

The group has heard a consistent set of messages.

As Western Maryland Democrats plead for a more competitive district, Democrats in Central Maryland are playing defense: They do not want to be corralled into a newly redrawn and sprawling 1st District.

Sharon Taylor of Bowie summed up the sentiment at a recent hearing in Prince George's County. She drew applause when she said African-Americans shouldn't be used as "filler" to help elect far-flung congressional representatives.

"Prince George's County cannot be the sacrificial lamb," she said.

July 12, 2011 *Center Maryland* article

Josh Kurtz — Sources: Congressional Delegation Dems Eye Bartlett As Redistricting Target

Rep. Steny Hoyer (D), the dean of the Maryland Congressional delegation and the No. 2 Democrat in the House of Representatives, is a wily legislative veteran, a master of the deal, and used to getting his way.

Rep. Donna Edwards (D), a fiery liberal with three years of Congressional experience under her belt, is known more for her political passion than her insider prowess.

But Edwards appears to be trumping Hoyer, according to multiple sources, when it comes to convincing their Democratic colleagues in the delegation which of the state's Republican-held seats to target in the upcoming redistricting process. And for now, at least, it looks as if a consensus is forming that they ought to go after Rep. Roscoe Bartlett (R) rather than Rep. Andy Harris (R).

Gov. Martin O'Malley (D) recently appointed a redistricting commission to help state lawmakers draft new Congressional and General Assembly maps. The governor and legislative leaders will have plenty of say over how the state's new boundaries will look.

But when it comes to Congressional lines, which will likely be adopted in a special legislative session that will convene in mid-October, the six Democrats in Maryland's House delegation will be accorded much sway.

And at the moment, sources say, despite Hoyer's plea to make the 1st District more Democratic to pave the way for a comeback for former Rep. Frank Kratovil (D), the delegation—with Edwards as one of the prime advocates—is close to signing off on a map that would

instead give Democrats at least a 50-50 chance of capturing Bartlett's district in the near future.

In Annapolis and in Washington in recent months, it's become accepted wisdom that Maryland Democrats, under pressure from national party leaders looking for the two dozen seats they need to retake the House in 2012, will attempt to move the delegation to a 7-1 seat Democratic advantage, up from the current 6-2.

The question for Democrats has been whether to go after Bartlett in the Western Maryland-based 6th District, or whether to go after Harris' Eastern Shore-based 1st District seat.

Both districts are Republican strongholds as currently drawn. Both gave Barack Obama just 40 percent of the vote in the 2008 White House election as he was racking up 62 percent statewide. But with clever manipulating, Democrats figure they have a decent shot of stealing one of the Republican seats, with minimal risk to their incumbents.

Hoyer has urged his colleagues to facilitate a comeback for Kratovil, who held the 1st District seat before being ousted by Harris in 2010—and who, by the way, is an old family friend of Hoyer's. The minority whip argued that Kratovil was a talented member who took some tough votes for the Democrats—including supporting the cap-and-trade bill—and deserved a chance to represent a friendlier district.

But Edwards made the case, according to sources, that Kratovil's 2008 win was a fluke—and that even bringing the 1st District across the Bay Bridge into Prince George's County or Baltimore City might not provide enough Democrats for Kratovil to win. She also argued that that adding African-American voters into an Eastern Shore district was the wrong thing to do, especially with the city losing one-twentieth of its pop-

ulation over the past decade. And she pointed out that Kratovil's voting record may not have been sufficiently progressive—he voted against health care reform, for example—to captivate base Democratic voters.

Edwards has apparently been working with a redistricting expert as the delegation has been deliberating the redraw. She also is reportedly willing to take on deep Republican territory in Anne Arundel County (while keeping turf in Prince George's and Montgomery counties) to help the Democratic cause. It's easy to be magnanimous when you won your last election with 83 percent of the vote.

So for now, the fragile consensus in the delegation seems to be to draw a new 6th District that runs roughly from Rockville to Oakland, a driving distance of about 170 miles. The 1st District would then take in all of the Eastern Shore and extend into conservative Carroll County, all but guaranteeing Harris a safe seat for the next decade.

A new 6th District would present a golden opportunity for some Democrat—presumably state Senate Majority Leader Rob Garagiola—to run and win. Democratic leaders feel that if they set up a tough general election, Bartlett, who will be 86 on Election Day 2012, and last faced a tough Democrat in 1992, will choose to retire. And they believe that Maryland Republican Chairman Alex Mooney, at this point the nominal frontrunner in any GOP primary to replace Bartlett, is beatable.

Even if they fall short in 2012, Democrats believe that with the cities of Frederick and Hagerstown trending slowly their way, a "Western Maryland" district anchored by Rockville and Gaithersburg is gettable sooner rather than later. And there's precedent for it: after all, the district that the Byrons—Goodloe and

Beverly—represented from the early 1970's to the early 1990's was not dissimilar.

A decade ago, Democratic leaders hotly debated whether to split Montgomery County roughly the same way, to create opportunities for Mark Shriver, the protégé of then-Maryland House Speaker Casper Taylor (D), and Chris Van Hollen, the protégé of state Senate President Mike Miller (D).

Ultimately, then-Gov. Parris Glendening (D) chose instead to create a Democratic-leaning district based in Baltimore County, a reward for term-limited County Executive Dutch Ruppersberger (D). Shriver and Van Hollen had a dramatic showdown in the principal Montgomery County district—with Van Hollen pulling the upset.

If a new 6th District is created, it'll be interesting to see whether any name Democrats besides Garagiola take a shot at it—though no names have circulated at present. It'll also be very interesting to see how Bartlett, who just announced his intention to seek reelection last week, will react. As of March 31, he had $247,000 in his campaign account.

As for Kratovil, with the option of running for his old seat cut off, he'll have to decide whether he wants to run for something else in the near future—like attorney general or comptroller. There's also the possibility that he could be tapped to be Maryland's next U.S. Attorney, assuming there's a second Obama administration.

Nothing is written in stone until the legislature passes a bill and O'Malley has signed it. Even then, the Congressional map could be subject to a legal challenge.

But for now, at least, it looks as if Donna Edwards has outmaneuvered Steny Hoyer—and that Frank Kratovil, as a result, may be the odd man out.

Emails from Sharon Strine

From:	Allyson McMahon <allymcmahon@verizon.net>
Sent:	Tuesday, April 08, 2014 12:31 PM
To:	Maria Pycha; Sharon Strine
Subject:	exec letter draft
Attachments	ExecLetter.docx; CampaignInfo.docx

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Bongino For Congress
2014 Campaign Information

Campaign Organization:

The Bongino for Congress campaign's top tier staff consist of the following individuals: Campaign Manager—Sharon Strine; Finance Director—Maria Pycha; Media Director—Karla Graham; Communications Director—Jim Petit; and Director of Operations—Ally McMahon.

In addition, Team Bongino includes a Volunteer Coordinator, Campaign Coordinator, Deputy Finance and Operations Managers, Political Directors, Grassroots Coordinator, Precinct Analyst, and County Coordinators for each of the 5 counties represented in the district (in whole or in part), as well as over 200 active volunteers who have committed to staffing Bongino campaign events and grassroots efforts.

Fundraising Profile:

The District:

Maryland's 6th Congressional District comprises all of Garrett, Allegany, and Washington counties, as well as portions of Montgomery and Frederick counties. According to the Charlie Cook Partisan Voting Index in 2012, it is a D+2 district due to redistricting. It is worth noting that it was D+2 when President Obama was at the top of the ticket. From 1982- 2012, Republican Roscoe Bartlett represented the district, winning re-election overwhelmingly each year. Despite the D+2 registration rating, analysis of voter registrations shows a larger than average number of Independents who typically identify as fiscal conservatives.

The Opponent:

John Delaney is a first-term congressman with no prior political experience. He won both the Democrat Primary and General Election by presenting himself as a fiscal and social moderate and political 'outsider'. Since his election, Delaney has maintained a liberal voting record, voting with Nancy Pelosi and Harry Reid over ___% of the time. His steadfast support of the Affordable Care Act, even in light of its striking unpopularity, is seen as a primary weakness during his 2014 re-election bid.

It is important to note that while he has touted himself as one who would like to reach across the aisle on fiscal policy as it relates to Wall Street, Delaney has been unable to move his proposed legislation forward due to his minority party status. This is seen as an area of weakness, as the House or Representatives is expected to remain firmly in Republican hands through the next several election cycles.

While he maintains a relatively small individual donor profile, Delaney has the ability to self-finance. We will

need significant resources to compete in the expensive media market of Montgomery County.

Earned media:

Dan has garnered national attention through book sales, guest hosting talk radio programs such as WMAL's Mornings On The Mall and The Chris Plante Show, as well as nationally syndicated shows such as the Sean Hannity and Mark Levin Radio Shows. Dan has also maintained his role as a pundit and security expert for several Cable News channels. Dan was named a Top Conservative Under 30 by the American Conservative Union, and was asked to speak at the 2014 CPAC Convention. His was touted one of the best Thursday speeches, and has been widely viewed online and shared throughout social media outlets.

Dan's public statements can be seen here:

Links to Dan's speeches

From:	Bob Farmer <bofar@comcast.net>
Sent:	Wednesday, June 26, 2013 5:15 PM
To:	Sharon Strine
Subject:	Re: Dan's residence?

Sharon, Congressman Bartlett did live in the old D6 & that's what I'm referencing in my email.

Bob

On 6/26/2013 3:33 PM, Sharon Strine wrote:

Hi Bob,

To be honest, no one who ran including Congressman Bartlett lived in the newly redistricted D6 in 2012. The

redistricting is a major issue for all of us. Thank you for getting back with me.

Sharon Strine
Deputy Campaign Manager
www.bongino.com
sharon@bongino..com
301-293-1281

From: Bob Farmer [mailto:bofar@comcast.net]
Sent: Wednesday, June 26, 2013 3:30 PM
To: Sharon Strine
Subject: Re: Dan's residence?

Sharon, I did get a response & I am disappointed that my cong. rep. does not have to live in my district. I must have assumed that all of the previous rep.s did live here in the 6th district & that it was a requirement. I'll have to think about my support for Dan now. I'm sorry that he is not my senator now.

Bob

On 6/26/2013 12:22 PM, Sharon Strine wrote.

Hi Mr. Farmer,

I just wanted to check if you had received a response. If not, I would be happy to answer your question. It is not a requirement that you live in the district to run. As a matter of fact, your current Congressman does not live in District 6. Dan loves Western Maryland and his supporters are over the top excited for him to become their next congressman.

Please let me know if I can help you with anything else.

Thanks so much for asking!

Sharon Strine
Deputy Campaign Manager
www.bongino.com
sharon@bongino..com
301-293-1281

From: Bob Farmer [mailto:bofar@comcast.net]
Sent: Tuesday, June 25, 2013 4:30 PM
To: finance@bongino.com
Subject: Dan's residence?

It's my understanding that my congressional representative must live in my congressional district, #6. If Dan still lives near Severna Park, that is another district. I'd be happy to contribute to Dan's campaign needs, but only if he can meet the necessary requirements for congressional representative.

Bob Farmer

* * *

From: Jeff MIller <rjefmiller@comcast.net>
Sent: Monday, August 26, 2013 5:54 PM
To: Sharon Strine
Subject: Re: Are you free August 30th?

Sharon,

Please call me at 301-363-7100...

I had a conversation with Dan earlier, and I am not going to hit a "pinata with hornets coming out of it". I'm not at all sure this would be in my best interest, and would like to discuss.

Jeff Miller...

"When we walk to the edge of all the light we have and take the step into the darkness of the unknown, we

must believe that one of two things will happen. There will be something solid for us to stand on, or we will be taught to fly."

Patrick Overton

"Gun control is like trying to reduce drunk driving by making it tougher for sober people to own cars."

From: "Sharon Strine" <sharon@bongino.com>
To: "Jeff MIller" <rjefmiller@comcast.net>
Sent: Monday, August 26, 2013 5:43:57 PM
Subject: RE: Are you free August 30th?

Hi Jeff,

Would you happen to have Ted Weaver's phone number? I talked to Dan about our conversation today and he told me to schedule a follow-up. He and Ted talked about 2 months ago on 2A and other issues. Dan would like to call him and get his opinion on some policy.

Thanks for the great conversation today!!

Sharon Strine
Deputy Campaign Manager
Bongino for Congress
P.O. Box 1330
Frederick, MD 21702
www.bongino.com
sharon@bongino.com
301-748-6197

From: Jeff MIller [mailto:rjefmiller@comcast.net]
Sent: Monday, August 26, 2013 12:00 PM
To: Sharon Strine
Subject: Re: Are you free August 30th?

If you wish to speak with me, I can be reached at 301-363-7100 after 1:00 PM.

I will share what I can, but you may have misunderstood what I wrote. This was a Second Amendment group that wanted to support Dan. Before they would, they asked for a Second amendment stance in writing. When they asked if Dan would support their efforts, the response was that after they held a fund raiser he would consider it. To me, this is just "pay to play", a standard political trick.

As I was presenting him as a man of honor who did NOT play this way, and was a man of conviction, this not only went against what I believed was true, but made me look foolish at the same time.

I received this information in confidence, and am unsure how to share this information with you, but I am willing to give you my thoughts. I am also in Delaney's MD 6th district, which was gerrymandered by O'Malley to remove Roscoe Bartlett. At this point my trust in Government and Specifically Maryland representation is so low that I am considering moving from the state.

I am a Second Amendment Voter who is somewhat disappointed in the fact that no strong WRITTEN statement seems to be made by the candidate. I have listened to him speak, but at this point I feel if it's NOT in writing, It doesn't hold any commitment.

Having been lied to for so long, Cynicism is becoming a way of life when dealing with ANY candidate.

Jeff Miller...

"When we walk to the edge of all the light we have and take the step into the darkness of the unknown, we must believe that one of two things will happen. There

will be something solid for us to stand on, or we will be taught to fly."

Patrick Overton

"Gun control is like tying to reduce drunk driving by making it tougher for sober people to own cars."

From: "Sharon Strine" sharon@bongino.com
To: "Jeff MIller" rjefmiller@comcast.net
Sent: Monday, August 26, 2013 11:02:16 AM
Subject: RE: Are you free August 30th?

Good Morning Mr. Miller,

I would be interested to talk with you regarding the organization you are associated with. We are not working with any other groups. That being said, organizations that support Dan may be supporting him by sending the information about this fundraiser.

If you would like to meet Dan in a non-fundraising setting he is all over Garrett, Allegany, Washington, Frederick and Montgomery Counties. I would be happy to let you know when he will be near your home for future events.

Please give me a call if you would like to talk.

Thanks!

Sharon Strine
Deputy Campaign Manager
Bongino for Congress
P.O. Box 1330
Frederick, MD 21702
www.bongino.com
sharon@bongino.com
301-748-6197

From: Jeff MIller [mailto:rjefmiller@comcast.net]
Sent: Monday, August 26, 2013 10:53 AM
To: campaign@bongino.com
Subject: Re: Are you free August 30th?

Dan,

While I am free on August 30, I will NOT attend any more of your events. If it cost me $100 to see you, I cannot afford to support Dan. I was also appalled when another organization I am associated with, asked for your support and received a response that after they held a fund raiser for him, he would consider it.

If we have to BUY support, then this is just Chicago Style "Pay to Play" wearing a different suit.

I cannot express how much this soured me... I don't know if this response came from Dan, or was the advice of staff, but either way, I am VERY disappointed.

Jeff Miller...

'When we walk to the edge of all the light we have and take the step into the darkness of the unknown, we must believe that one of two things will happen. There will be something solid for us to stand on, or we will be taught to fly."

Patrick Overton

"Gun control is like trying to reduce drunk driving by making it tougher for sober people to own cars."

From: "Dan Bongino" campaign@bongino.com>
To: rjefmiller@comcast.net
Sent: Monday, August 26, 2013 10:09:23 AM
Subject: RE: Are you free August 30th?

Are You Free August 30th?

My Invitation

Dear friend,

The kids may be heading back to school and the warm days of summer coming to an end, but my campaign for Congress is just getting started. I'd love to have the chance to meet you and tell you about my plans to return common sense to its rightful place in the halls of Congress.

Are you free to join Paula and me this Friday, August 30th, for a night of conservative fellowship and fun? We have a terrific evening planned, and we want you to join us.

When: Friday, August 30, 2013
7:00 p.m. - 9:00 p.m.

Where: Whiskey Creek Golf Club
4804 Whiskey Court
ljamsville, MD 21754

Please go here to find out how you can take part in this event. I want you to be a part of my campaign from the very beginning.

Like you, I am just an ordinary citizen who is fed up with the steady stream of nonsense - and worse - that is coming out of Washington every day.

I have spent the last few years talking at length with passionate conservatives like you. As a result, I am taking a radical approach that surely will not sit well with the political class.

Through my recently announced Citizen Contract, I have pledged to:

- Serve in Congress for only three terms

- Donate half my Congressional salary to charity
- Reject spending your tax dollars on Congressional junkets
- Vote down any piece of legislation that exempts the political class

You and I have a choice to make. Are we content to sit back and complain? Or are we going to fix this mess?

Let's gather in Ijamsville this Friday to discuss how we can work together to craft meaningful change for Maryland and our fellow Americans.

It's time that We the People give the DC elites a one-way ticket out of town.

If you can't join us this Friday, would you please consider making a generous donation today of $25, $50 or even $100? These early days are when your donation can have the greatest impact. Of course, if you could dig a little deeper and send $250, $500, or $1000, we'll be that much closer to taking back Washington, D.C.

I can win this race. I will win this race. But I need your help today to do it.

I hope to see you in Ijamsville this Friday!

Sincerely,

Dan Bongino

P.S. I've gone ahead and attached the invitation to the Ijamsville event—I'd really appreciate if you'd help spread the word about this event and about my campaign. These early days are so important in setting up the foundation on which we will build a grassroots victory in November of 2014. Thank you for your support!

* * *

Dan Bongino was the 2012 Republican Nominee for the United States Senate in Maryland. He served for over a decade in the United States Secret Service as a special agent and is currently a small businesses owner with his wife Paula.

Deposition of Plaintiff Charles W. Eyler, Jr.

Q. Good morning, Mr. Eyler.

A. Hi.

Q. My name is Jennifer Katz, and I'm an Assistant Attorney General with the Attorney General's Office, and I represent the defendants in this case.

A. Um-hum.

MS. KATZ: I'm going to have your counsel introduce themselves for the record.

MR. STEIN: Micha Stein from Mayer Brown representing the plaintiffs and the witness.

MR. MEDLOCK: Stephen Medlock from Mayer Brown representing the plaintiff and the witness.

Q. Okay. I'm just going to show you—I think [6] we're doing this in order, and I think we're up to number 14.

MR. MEDLOCK: Yes.

MS. KATZ: Exhibit 14. Is that correct?

MR. MEDLOCK: That's right.

Q. I'm just going to show you what's going to be marked as Exhibit 14 and give a copy to your counsel. Have you seen this document before?

A. Yes.

Q. Okay. And are you the subject of this deposition notice?

A. Yes, I am.

Q. Okay, great. Just do you still reside at this address that's listed here, 13249 Creagerstown Road—

A. I do.

Q. —in Thurmont? Okay, great. Thank you, very much. Mr. Eyler, have you ever been deposed before?

A. No.

Q. Okay. So I'm just going to go over a couple of brief housekeeping rules. So because the Court [7] Reporter is trying to take down everything that we say, I'm going to ask that you wait until I finish a question to give an answer, and then I'll wait until you're done giving an answer to ask another question. In other words, we won't talk over each other. And I'm going to ask that you provide verbal answers to questions for the benefit of the Court Reporter. If you don't understand a question that I ask, please ask me to clarify. If you don't tell me that you don't understand I'm going to assume that you do.

And we're going to try to make it through without a break, I don't think this will take very long, but to the extent you need to take a break, please let me know and we will find a good place to stop.

So I just want to make sure that you feel that you're able to testify today. Are you taking any medication that may affect your ability to testify or recall matters?

A. I'm taking medication for a disease that I have, but it is not anything that affects my mental [8] ability.

Q. Okay, great. Thank you, very much. So we just sort of went over your current address in Thurmont. How long have you lived there?

A. Since 1976.

Q. Oh.

A. At the same address.

Q. Okay.

A. And before that—I was born there and lived there till I went away to college.

Q. At that same address?

A. No, at a different address. My parents' home. But I've lived in Thurmont—except for college and graduate school I've lived there all my life.

Q. Where did you attend college?

A. Catawba College and then Penn State.

Q. Where is Catawba College?

A. Salisbury, North Carolina.

Q. Oh, okay. All right. So you started in North Carolina and you finished at Penn State?

A. Yes, I did.

Q. And what did you get your degree in? [9]

A. Music and theater. And then I just did the technical theater at Penn State.

Q. Wonderful. And you mentioned graduate school. Where did you attend graduate school?

A. That was Penn State.

Q. Oh, that was Penn State.

A. That was graduate school.

Q. Sorry. And are you currently employed?

A. No, I retired in 2014.

Q. What did you retire from?

A. I taught for 16 years in the public school system and then I started a business and had that for—well, it overlapped with the teaching, but I did that for over 30 years. And then after 2007, which affected all of us, it took a long time, but I finally retired in 2014.

Q. Okay. What kind of business did you run?

A. Actually I ran the first closet organizing business in Western Maryland.

Q. Oh.

A. It started in 1982 and continued that till [10] 2014.

Q. That's fascinating. And what did you teach?

A. I taught music and theater.

Q. What grades? Just out of curiosity.

A. Seven through 12, but mostly high school.

Q. I bet that was a fun job.

A. It was a fun job that I finally had to give up when my children were born because it's a lot a lot of hours, many hours.

Q. We all can relate. Do you recall when you first registered to vote?

A. When I came back from college, and I think it was for sure 1972. I believe we have records to that.

Q. Okay. And so you said when you came back from college. Were you living in Thurmont at that time?

A. No, I came back from college—we lived in Frederick at the time, and we rented in Frederick.

Q. Okay. And do you recall what congressional district you were living in at that time?

A. I think it was all in the 6th District at [11] that time. I believe.

Q. And do you recall who your congressional representative was at that time?

A. I believe it was Beverly Byron. She was a Democrat.

Q. When you first registered to vote in 1972 do you recall how often you voted?

A. With a few exceptions, and I'm not even sure if there are any exceptions, I voted every year. Every cycle.

Q. Up to the present?

A. Yes.

Q. And when you say every cycle does that include primary elections?

A. I was registered as an Independent from '72 until approximately 2001. And my wife and I both decided at that time that we—in order to be able to vote in the primaries we decided to register as Republicans.

Q. So between 1972 and 2001 when you were registered as an Independent, I just want to make sure I understand your testimony, during that time [12] you believe that you voted in every general election?

A. That's correct.

Q. Okay. And does that include presidential—general presidential elections?

A. Certainly.

Q. And gubernatorial elections?

A. Certainly.

Q. And do you recall if you always voted for your—for a congressional representative?

A. Yes, certainly.

Q. Okay. Since 2001 when you've been a registered Republican have you voted in the primary elections?

A. Yes.

Q. Do you think all of them that you've been able to vote in?

A. Yes. We are very good at voting.

Q. Do you recall ever missing an opportunity to vote?

A. Not really, no.

Q. Okay. [13]

A. I mean it's possible, but in the last 40 some years, I don't think so.

Q. So just so I'm clear, did you vote in the 2012 primary election?

A. Yes.

Q. And the 2012 general election?

A. Yes.

MR. STEIN: Can you clarify which primaries?

MS. KATZ: I think I said 2012 primary election.

MR. STEIN: I mean presidential or—

MR. MEDLOCK: Congressional.

MR. STEIN:—congressional.

A. I voted in both the Maryland and the congressional and the presidential. I voted in all of the categories in that cycle of 2012.

Q. And would you say the same for the 2016 cycle?

A. I would.

Q. And in 2014 did you vote in the primary election for governor?

A. Yes. [14]

Q. And did you also vote in the primary election for congressional representative in 2014?

A. Certainly.

Q. And did you vote in the general election in 2014?

A. Yes, ma'am.

Q. Okay. Thank you. So I believe you told me that from the time you registered to vote in 1972 until 2001 you were registered as an Independent?

A. That's correct.

Q. Throughout that entire time you were registered as an Independent?

A. I was.

Q. Okay. And since 2001 to the present you're a registered Republican?

A. That's correct.

Q. And has that changed from 2001 to the present?

A. No.

Q. Have you always been registered as a Republican?

A. Yes. [15]

Q. Have you ever voted for a candidate who was not a Republican?

A. Yes.

Q. Do you recall when?

A. Do you mean recently or do you—

Q. Let me ask you this. Do you recall the first time you voted for a candidate who was not a Republican?

A. Yes. And I can't tell you exactly what year, but I voted for Beverly Byron who was the Democratic representative. Other than that I can't think of another Democratic candidate that I voted for on that level.

Q. On the level of congressional representative?

A. Yes, ma'am.

Q. Okay. And do you recall ever voting for a Democratic candidate that was not a candidate for your congressional representative?

A. For presidential candidates I voted for two Democrats recently, Obama and Clinton. Obama twice and Clinton. I don't recall ever voting for a [16] particular party while I was an Independent, if you see what I'm saying. I can't remember exactly who I voted for, but it was possible that I voted for a Republican in one cycle and a Democrat in the next at that point.

Q. And I just want to clarify. When you said Clinton in your prior answer are you referring to Hillary?

A. Hillary Clinton.

Q. Do you recall if you voted for Bill Clinton?

A. I don't think so.

Q. Okay.

A. I'm almost certain that I voted Republican then. I can assure you actually that I didn't.

Q. Do you recall if you voted for Beverly Byron more than once?

A. I don't. But I think it was probably more than once because I recall when she was defeated in the primary, which was a big upset, and when Roscoe Bartlett. That's been quite awhile ago, though.

Q. Okay.

A. But I voted for either her husband or her in [17] that time period from '72. I mean they were the only Democrats that I recall voting for as congressional representatives.

Q. And just to be clear, when you referred to her husband did you mean Goodloe Byron?

A. I did.

Q. Okay, thank you. Why did you vote for Goodloe Byron?

A. I knew the family. I grew up, of course, above northern—in the northern area in Maryland above Frederick, but I knew many people, of course, in Frederick County. And the Byron family was one of them. As a matter of fact, I knew many of the kids in the area because I was about the same age.

Q. And when you recall voting for Beverly Byron do you recall why you voted for her?

A. I do because she was a Frederick County native, and she had strong support even as a Democrat in the county because she was—she and her husband were both proficient at providing good representation.

Q. How do you define that, providing good [18] representation?

A. They were familiar with—as natives they were familiar with the county, the residents both north, east, south and west, and the city of Frederick. And they were very aware of—they were very aware of the groups and types and I guess of who they were representing. I think that's probably it. In other words, they could tell you specifically what went on in this town and that section and the farms over there. In other words, they knew the area because of their background. And we all knew that they knew us.

Q. Okay. You referred to Beverly Byron's primary defeat?

A. Um-hum.

Q. Do you recall if in that year if you voted in the general election for Roscoe Bartlett?

A. I did.

Q. Okay. And do you recall whether you voted—ever voted for someone other than Roscoe Bartlett when he was on the ballot?

A. No. [19]

Q. Okay. In 2012 do you recall who you voted in the general election to be your congressional representative?

A. I voted for the Republican candidate at that time.

Q. The same question for 2014.

A. The same.

Q. And then the same question for 2016.

A. Yes, ma'am, the same.

Q. What are the qualities that you look for in a political candidate?

MR. STEIN: Object. Vague.

A. I think their knowledge of the communities that they are going to serve is paramount and certainly their—the approach to their representation. In other words, are they going to be able to recognize in their district all of the segments and be able to give each of those proper representation. I believe that's a big—a very large part of this, being able to cover the area that they are elected to cover.

Q. Thank you. Have you ever attended an event [20] held by your congressional representative?

A. Well, not by congressional, no. I have attended state representative events but never congressional, no.

Q. And I realize that you've been represented by a congressional representative for a number of years now.

A. Yes.

Q. So I'm asking you to think back into the 1970s if you can recall ever having attended an event.

MR. STEIN: I will object as vague.

Q. Yeah. Do you recall ever having attended an event held by either your congressional representative either when you first registered to vote up to the present?

A. No. I'm certain of that.

Q. Okay. Have you ever volunteered on a campaign for a political candidate?

A. I have. David Brinkley is a friend of mine. And I believe he started his political career about 20 years ago. He's currently, of course, the—[21] well, you know who he is. He's the one that pays you. Or gives you your budget.

Q. Was that the only campaign?

A. Yes. Really it is.

Q. Okay. And so you probably inherently answered this. But have you ever worked as a paid employee on a campaign?

A. No, I have not.

Q. Have you ever worked as a paid employee for a politician in any form?

A. No, I have not.

Q. Okay. And again, I'm asking you to recall a significant period of time. But do you recall ever contacting any of your congressional representatives constituent services?

A. I would say that in the period of 40 plus years that my wife and I have sent letters or responses to our congressional representatives. I can't tell you now what the objective was at that point, but we have, in fact, responded to whatever the issue was at the time.

Q. Can you recall with specificity any of those [22] letters that you may have sent?

A. No. There have been so many issues that I simply couldn't put into words which ones were specific.

Q. And when you say issues, I'm just trying to get a sense of what that means. Does that mean issues that were personal to you, things that you may have needed help for from your representative?

A. Well, let's say the redistricting issue. That's the type of thing that I would respond to and ask my

congressional representative to pursue the reason why it is what it is at this moment.

Q. So when you say issues do you mean political?

A. I mean political issues, yes.

Q. Thank you.

A. That all are aware of. And that become issues. Hot issues. The issue of the day.

Q. At the very least, issues that were important to you, right?

A. Yes, that's correct.

Q. Okay. And so you mentioned redistricting. [23] Do you recall—do you recall specifically writing a letter about redistricting?

A. I do not.

Q. Okay. And you don't recall any particular issue specifically that you may have—

A. On redistricting at this moment? Well, you have to realize that during the '70s, especially in the '80s and the '90s—let's face it, every decade has its issues, but I think that these were broader issues, national issues, things that many people responded to. I would not say that these were something that I wrote to and said a tree just fell on my house. Can you help me?

Q. Okay, great. Thank you. Do you recall if you've written any such letters since 2012?

A. No, I have not.

Q. Do you recall if you've contacted your congressional representative in any way since 2012?

A. No, I haven't. And I guess I could skip to the fact that I was almost assured that it didn't matter if I contacted them because they probably wouldn't

know who I was, where I lived or what I was [24] asking about anyhow.

Q. Okay. Do you recall when was the first time you became interested in redistricting as an issue?

A. I would say from the beginning of the current redistricting and as it was looked—as it was looked into and finally got to the referendum. I mean all of that was an issue that I was interested in, of course, because I felt it was unfair to our community.

Q. And prior to the redistricting in 2011 that you're referring to did you have an interest in redistricting?

A. No.

MR. STEIN: Object as vague. Sorry. Go for it.

A. No. Frederick County as far as I know the 6th District had been in pretty much the same configuration for—I have no idea how many years.

But, you know, the 2011 redistricting was should I say much exaggerated from anything else I had ever seen or heard of. So it was quite a shock to me to see that the patterns that were evolved were there. [25]

Q. And when did you first find out about the 2011 congressional redistricting plan?

A. I read the newspaper, the local newspaper. And it was complete with the redistricting maps and so forth.

Q. Okay. Do you recall when you might have first read about it in the newspaper?

A. I do not. I will tell you that, of course, the latest was probably in what, the beginning of 2016, after this initial trial that this law firm handled before the Supreme Court I understand. I read the papers

and the same argument, not argument but the same models and the same patterns, the same maps and so forth that were being discussed at that time were just—well, they were presented basically the same way.

Q. Did you testify before the governor's redistricting advisory—

A. No.

Q. —committee? Did you post any public comments after the plan was revealed to the public?

A. No. [26]

Q. Do you recall if you voted—how you voted on the referendum involving the redistricting plan?

A. Well, I will tell you that the referendum as presented on the ballot was so manipulated, I guess is the term I might use, certainly was confusing. And if I can give my opinion I would say that most of the people that voted for the referendum didn't know if they were voting for or against it because it was so difficult to understand what your point was. In other words, did you say yes to not having it or no to having it? You see what I'm getting at? And I believe the referendum would have gone—I believe we would have voted—I say we. I think especially the voters in our district would have certainly voted against this current redistricting if we would have had a yes or a no answer to that.

Q. Do you recall if you voted—how you voted on that referendum?

A. I can't tell you if I voted yes or no, because I'm not sure to this day if I understood. When I walked out of the voting booth I had no idea, and I realized that no one else did. [27]

Q. Okay.

A. Have you read that paragraph?

Q. I have.

A. It's very tough.

Q. Do you recall—do you recall if before you stepped into the voting booth to vote on the referendum, do you recall knowing that the referendum was going to be on the ballot?

A. Yes.

Q. Okay.

A. I was pleased that it was.

Q. Great. Other than joining this lawsuit have you taken any action about redistricting after the passage of the 2011 plan?

MR. STEIN: Object. Vague.

A. No, I haven't taken any action except voting for the referendum, for or against or.

Q. Got it. Mr. Eyler, how did you first hear about this lawsuit?

A. Actually my son was a neighbor and a classmate of Michael Kimberly who is an associate of this law firm and—[28]

Q. I know him well.

A. Right. So this came up in a discussion at a family get-together, neighbor get-together, and I was aware that Michael had done the first—the Supreme Court part of this and that it's been kicked back to this point. That was all I was aware of until Michael said, "You're from the 6th District". Because he had been to my house and he knew that that's where we lived. And he said, "Would you be interested in being a plaintiff in this?". And I said certainly.

Q. And the Michael you're referring to is Michael Kimberly?

A. Michael Kimberly.

Q. And you may have talked about this to some agree. But why did you decide to join the lawsuit?

A. It's fairly simple. I'm still very much opposed to the redistricting of our area, and I thought if this is a means to an end that I would gladly help out.

Q. You said that your son was a neighbor of Michael Kimberly's? [29]

A. Yes.

Q. Who is your son?

A. Gus Eyler. He's also an attorney by the way. That's another—they all stick together.

MR. MEDLOCK: I'm going to object to your characterization.

THE WITNESS: Okay. Yeah, well.

Q. Do you think you were harmed by the 2011 congressional redistricting?

MR. STEIN: Object as vague and ambiguous.

A. I do.

Q. You can answer.

A. I do.

Q. How so?

A. I think that our region, if that's the right term, our community has not had the representation, may I say a more human level of representation, than when the 6th District was more inclusive and did not have that incredible attachment to Montgomery County which now exists.

Q. When you say human level of representation what do you mean by that? [30]

A. I mean that the representative of that area actually understands the area, visits the area, talks to the people. I'm talking about a background of understanding the—not just the geography but the sentiments more or less of the population in that area, which is something that had happened since I can recall living in Frederick County all my life. We always had a representative who was, may I just say, local and understood the county and the district. Now we have someone that certainly isn't too interested in our area because as a politician he understands that we are—we don't contribute anything to his wellbeing and I would say that it's just—he doesn't represent much to our wellbeing.

Q. Who are you referring to right now when you say he?

A. I think Van Hollen at this point.

Q. And on what do you base your statement that he isn't too interested in the area?

A. Because we're typically a Republican conservative group in the area and he has an overwhelming majority in Montgomery County. I don't [31] know what Montgomery County is, the percentage of Democratic voters, but I would say that it's—the amount of Democrats registered in Montgomery County far outweighs any Republicans registered in our small area in northern Frederick County. And the redistricting certainly split all of that up. I would say divide and conquer would be kind of the term I'm looking for.

Q. And you were just speaking about Chris Van Hollen; is that right?

A. Yes.

Q. Have you had any interactions or communications with him?

A. No. Chris Van Hollen, as far as I know, has been to our area one time. I wasn't able to make it, but he did have a sort of a town hall meeting at the library.

Q. And when you say our area, do you mean Thurmont?

A. I mean northern Frederick County and Thurmont specifically.

Q. Okay. And I know he was just sworn in [32] recently. But what about your new representative, Jamie Raskin, have you had any interactions with him?

A. I have no idea of what he has done or will do.

Q. Okay.

A. Yeah.

Q. You just know—what do you know about him?

A. Not that much to be perfectly honest with you. And that's I think the difference.

Q. Okay.

A. I don't know much about him.

Q. So you stated that somebody who is local or understands the area, visits the area, talks to the people there, those are the—is it correct to say that those are some of the qualities you look for in a candidate?

MR. STEIN: Object. Mischaracterizes the testimony.

A. I think that's actually what a politician is supposed to do.

Q. And so do those qualities matter more to you [33] than someone's political party?

A. Well, let me just state it this way. The political party in national elections, for instance, the presidential election, doesn't have as much gravity as local elections especially when you have neighbor-

hoods, or in this case an area. Let's say northern Frederick County and the old 6th District, which included Washington, Allegheny, Garrett. The people residing in that area are much more—well, they're certainly not the urban or suburban grouping that you might find in Montgomery County. So there is such an immediate difference to those who've lived here all their life. I've made 256 trips to Kensington in the last five years to visit my grandchildren. We figured it up the other day. But I don't in other terms have any dealings with Montgomery County, if you follow what I'm saying, and I think the reverse is true of the politicians and the people that deal with the district as it stands now.

Declaration of Andrew Duck

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

O. JOHN BENISEK, *et al.*,

Plaintiffs,

v.

LINDA H. LAMONE., *et al.*,

Defendants.

Case No. 13-cv-3233

DECLARATION OF ANDREW DUCK

I, Andrew Duck, under penalty of perjury, declare and state:

1. I am over the age of 18 and am competent to testify to the matters stated below.

2. I reside at 216 N. Delaware Avenue, Brunswick, Maryland 21716, which is located in the southwest corner of Frederick County within Maryland's sixth congressional district ("sixth district").

3. My family moved to Frederick County in 1976, around which time I was entering high school.

4. Prior to that time, my family owned property in Frederick County, which my family and I visited frequently.

5. I first registered to vote in 1980, at which time I continued to reside in the sixth district. In the 1980 primary and general elections, I voted for Beverly Byron, a Democrat, to represent the sixth district in the United States House of Representatives.

6. Shortly thereafter, I entered the Army at age 19, and I did not return to Frederick County on a permanent basis until I left the Army at age 41. For the

first four years of my Army service, I voted by absentee ballot in the sixth district, and I consistently voted to reelect Beverly Byron.

7. When I returned to Frederick County in or around 2004, the sixth district was drastically different and had drastically different representation in the House of Representatives than it had when I previously resided there.

8. I came to learn that after the 1990 census, Maryland had enacted a redistricting plan that changed the composition and structure of the sixth district, such that the district no longer included a significant portion of western Montgomery County. I further learned that after the 2000 census, the sixth district was redrawn to span from Western Maryland across the northern border of Maryland into Baltimore and Harford Counties. As a result of these changes to the composition of the sixth district, the sixth district had become heavily slanted to Republican voters.

9. From 1992 through 2012, the sixth district was consistently represented in Congress by a Republican, Roscoe Bartlett.

10. I was unsatisfied with Congressman Bartlett's representation in Congress. I disagreed with his support for tax cuts which most benefited the richest among us combined with a desire for extreme cuts in government spending that benefited working and middle class citizens. His blind support for Bush Administration policies in Iraq was damaging the Army to which I had dedicated much of my life. As a Soldier who had served in Bosnia, Congressman Bartlett's opposition to participation in United Nations peacekeeping activities was also contrary to my beliefs. In particular, he represented a vast departure from the moder-

ate members of Congress who had represented the sixth district prior to the 1990s.

11. For example, Beverly Byron, who represented the sixth district for many years, and her husband Goodloe Byron who represented the district before her, were considered moderate Democrats who effectively represented the sixth district in Congress. Congresswoman Beverly Byron had supported the military while also supporting the common sense programs that support working and middle class citizens.

12. The sixth district had a long history of such representation. Notably, Congressman David John Lewis, a Democrat, represented the sixth district from 1911 through 1917, and again from 1931 through 1939 during which time he introduced the Social Security bill in the House of Representatives in 1935.

13. Because I was unsatisfied with my congressional representative and the make-up of the sixth district, I engaged in various political activities centered on returning the sixth district to its prior politically-moderate climate.

14. Beginning in or around 2004, I became actively involved in registering new Democrats to vote in the sixth district, and I actively recruited Democrats to become involved in local Democratic politics. Between 2006 and 2010, efforts to register voters increased the number of registered Democrats in the sixth district from 146,227 to 159,715, an increase of 9%.

15. I also engaged in other efforts to bring attention to Democratic voters in Western Maryland. For example, in 2005, I helped create the Western Maryland Democratic Summit, an annual event aimed at promoting Democrats in Western Maryland. This event has helped draw attention from legislative leaders in

Annapolis to Democratic voters in Western Maryland. Democratic candidates for statewide office attend the Summit each year, including Democratic candidates for Governor, Comptroller, and Attorney General, and usually the Democratic candidates for United States Senator.

16. In addition, I ran to represent the sixth district in the House of Representatives in 2006, 2008, and 2010. I ran for Congress even though I knew the sixth district had an entrenched Republic congressman, because I believed it was important to show State leaders that Western Maryland had an active and strong Democratic electorate.

17. At the time I was running for Congress, the former sixth district spanned over 220 miles from east to west, making voter contact across that entire district quite difficult. Despite those difficulties, during my campaign in 2010, I traveled across the sixth district, from Garrett County to Harford County. My experiences campaigning for office in the sixth district exposed me to various differences among communities located in the former sixth district.

18. There are vast differences between the mountainous region of western Maryland and central Maryland. For example, the residents of Garrett County do not live in the Chesapeake Bay drainage area, while residents of Harford County live right next to the Chesapeake Bay. Communities in Harford, Baltimore, and the eastern part of Carroll County tend to center around the Baltimore region, while communities in Garrett, Allegany, and the western part of Carroll County do not. I also experienced that voters in Frederick and Washington Counties were more closely aligned with the Washington, D.C. suburbs, similar to Montgomery County.

19. These differences increased the difficulty of campaigning for office in the sixth district. The sixth district spanned three media markets, the Baltimore media market, the Washington, D.C. media market and the Pittsburg media market in the west, making advertising for a congressional campaign very expensive. Because many people in the eastern part of the sixth district worked and attended recreational events in Baltimore City, while many people in the western part of the sixth district never traveled to Baltimore, it was hard to find locations for campaign events that would attract significant numbers of voters from both parts of the sixth district. When advertising for events, advertisements placed in Baltimore would attract too many non-residents, while advertising in western Maryland would fail to capture significant numbers of voters who resided in Harford, Baltimore, and the eastern part of Carroll County.

20. On July 23, 2011, I attending a hearing conducted by the Governor's Redistricting Advisory Council ("GRAC") in Frederick County. During my testimony at that hearing, I relayed my experiences campaigning in the former sixth district and offered testimony about the differences in communities encompassed within the former sixth district. I testified that in order to make it more viable for candidates for office to reach all of the voters of the district and to better represent the population as a whole, the GRAC should reorient the district to include more of Montgomery County, less of Carroll County, and none of Harford and Baltimore Counties.

21. I consider my testimony at this hearing, along with similar testimony at other GRAC hearings, to have been an essential part of the political process related to redistricting.

22. I have supported John Delaney as he has run to represent the sixth district since 2012. I consider Congressman Delaney to be a Democrat in line with the historical representation of the sixth district prior to 1992. I have found Representative Delaney to be a significant improvement from the previous Congressman in representing the district's constituents. He regularly hosts constituent events in Frederick, Hagerstown, and Cumberland, Maryland.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

22 April 2017 /s/ Andrew Duck

Date

April 3, 2012 *Washington Post* article

Delaney defeats Garagiola in Democratic primary for House seat from Maryland

By Ben Pershing April 3, 2012

A wealthy newcomer defeated the Democratic establishment's pick for a redistricted House seat in the Washington suburbs Tuesday, the biggest victory in Maryland's primaries.

In the closely watched Democratic primary, financier John K. Delaney beat state Senate Majority Leader Robert J. Garagiola (Montgomery) by a wide margin in a race that had been expected to be close.

Delaney will now face Rep. Roscoe G. Bartlett (R), whose district was redrawn to be tossup territory in November. Bartlett fended off state Sen. David Brinkley (Frederick) and six other Republican challengers in a battle for the night's most contested seat.

Garagiola was the pick of much of the state Democratic Party establishment, which tailored the district lines to make them favorable to their candidate, while Delaney was a first-time candidate whose prodigious spending helped level the playing field. Delaney's win was a repudiation of the party leaders and traditional Democratic interest groups that threw their weight behind Garagiola.

David Wasserman, the House editor for the nonpartisan Cook Political Report, blamed Garagiola's loss in part on the fact that he chose not to go on the airwaves, while Delaney was a heavy presence on television and radio.

"Delaney's win is confirmation you need a modern ad campaign to win a primary in the D.C. suburbs, where the cost of name recognition is steep," Wasserman said. "It's also confirmation that drawing the lines is no guarantee of electing a certain candidate."

As former Massachusetts governor Mitt Romney won the state's Republican presidential primary and Sen. Benjamin L. Cardin (D) easily beat back an intra party challenge, all of the state's eight U.S. House members won their primaries, and all but Bartlett appeared on track to win in the general election.

At the Potomac Community Center, Terry Ao said she supported Garagiola because she felt he echoed her social values.

"I am a civil rights attorney working for a nonprofit in D.C., and I felt that he spoke the most to my issues and concerns," she said. Ao said she is particularly focused on the needs of the region's "vulnerable communities" and felt that Garagiola "would be a champion for them."

George Guess, 67, voted for Delaney. Guess said he was impressed by the strong grass-roots presence of Delaney's campaign, with volunteers who came through neighborhoods to knock on doors.

"He struck me as close on the issues to Garagiola, but Delaney was endorsed by [former president Bill] Clinton, and he had all those guys on the ground rather than just calling," Guess said. "I thought that was more sensitive to the people, less canned."

At Hillcrest Elementary School in Frederick, Henry Brown, 71, said he voted for Delaney because, "If it's good for Bill Clinton, it's good for me."

Turnout across the state appeared to be "relatively light," said Donna Duncan, a spokeswoman for the Maryland State Board of Elections.

"We'll be lucky if we reach 25 percent" of registered voters, she said, a level which would roughly match turnout in the state's 2004 primaries.

The story of Delaney and Garagiola's months-long fight followed an unusual arc.

When Annapolis Democrats redrew the state's congressional map, they decided to target Bartlett by adding the western portion of Democratic-leaning Montgomery County to the more conservative Maryland panhandle. And at the urging of state Senate President Thomas V. Mike Miller Jr. (Calvert), a close Garagiola ally, they drew the 6th Congressional District to include Garagiola's Germantown home but exclude those of several other prominent Montgomery Democrats.

U.S. House Minority Whip Steny H. Hoyer (D-Md.) threw his weight behind Garagiola, as did every major union and such liberal groups as MoveOn.org and the League of Conservation Voters. Maryland Gov. Martin O'Malley (D) also endorsed Garagiola in the closing days of the race.

But Delaney, the founder of the Chevy Chase commercial lender CapitalSource, was able to leverage some of his own political connections, winning the backing of Clinton as well as Comptroller Peter Franchot and Rep. Donna F. Edwards of Prince George's County.

Delaney raised roughly double what Garagiola did in the first quarter of the year from outside donors, and Delaney also put about $1.7 million of his own money into his campaign. He ran a host of television and radio ads, while Garagiola was silent on the airwaves.

The tenor of the race was often negative. Delaney branded Garagiola an Annapolis "insider" and criticized him for not reporting outside income from a lobbying job on state disclosure forms. Garagiola accused

Delaney's business of unsavory practices and pointed out his contribution to the congressional campaign of Rep. Andy Harris (R-Md.) in 2010.

Bartlett, meanwhile, was leading a field that included Brinkley and Del. Kathy Afzali (Frederick). Although the redrawn district includes territory he has never represented, and some state Republicans had privately expected him to retire, Bartlett appeared to benefit from the fact that the anti-incumbent primary vote was split several ways.

At Potomac United Methodist Church, Republican Roger Thies said he supported Bartlett because he felt he was the GOP's best bet at retaining control of the competitive seat.

"Clearly the Democrats have tried to gerrymander [the district], and I think Bartlett has the best chance to hold it, on name recognition alone," Thies said. He said it was the "sole reason" he cast his ballot for Bartlett.

In the Senate contest, Cardin easily deflected a primary challenge from state Sen. C. Anthony Muse (Prince George's) and seven other Democrats. With roughly a quarter of the precincts reporting, Cardin led Muse by more than 50 percentage points and had been declared the winner by The Associated Press.

"We are extremely pleased by our results in all parts of the state," Cardin said in a brief interview. "We're ready for the general."

Muse, who is black, made the case that Prince George's needed a better voice in Congress and pointed out that the Senate has no African Americans. But Cardin, who won an early endorsement from President Obama, was better known around the state and far better funded than Muse.

Walking out of the polling site at Bethesda-Chevy Chase High School, Don Allen said he voted for Cardin. Although he said he thinks there should be more African Americans in Congress, he thought Muse—who opposes same-sex marriage—"was too far to the right on social issues."

Cardin is also favored in November against the eventual Republican nominee, particularly with Obama atop the ballot. Former Secret Service agent Daniel Bongino led ex-Defense Department official Richard Douglas in a tight race to face Cardin.

On the House front, author Ken Timmerman was the Republican pick to take on Rep. Chris Van Hollen (D). Republican activist Faith Loudon prevailed in the contest to face Edwards, while Del. Anthony J. O'Donnell (Calvert) won the GOP nod to oppose Hoyer.

November 8, 2014 *Frederick News-Post* article

Why U.S. Rep. Delaney should
thank Blaine Young

Frederick News-Post Editorial Board
Nov 8, 2014

U.S. Rep. John Delaney (D) has won a razor-thin victory over Dan Bongino in his re-election bid to the 6th Congressional District seat.

And for that he might want to send Blaine Young a thank-you card. We'll tell you why in a minute.

Delaney's victory wasn't assured until absentee ballots were counted Thursday. The congressional race — which turned into a nail-biter Tuesday night — wasn't supposed to be this close.

After all, the Martin O'Malley administration had shamefully gerrymandered the congressional district (which includes a large chunk of Frederick County) in order to push former Republican congressman Roscoe Bartlett out of office two years ago and solidify it as a safe Democratic seat for years to come.

But that strategy nearly backfired this week.

When district-wide voters showed up at the polls they voted heavier than expected for Republican candidate Bongino. He trailed by about 2,000 votes election night.

But now that we've had a few days to digest this race, it has become abundantly clear that the only reason Delaney isn't a one-term congressman is because of his support from Frederick County. Without Frederick County, Delaney would have gone down in Maryland history as one of only a handful of "one and done" congressmen.

In a historic election that doomed almost anyone with a "D" after their name, Delaney and a handful of other Democrats on the Frederick County ballot were able to survive in a county with a 6,500-voter registration edge for Republicans. When all the votes are finally tallied next week, Delaney will likely defeat Bongino by at least a 1,700-vote margin in the county.

That's significant because Delaney was hammered by 2-to-1 and 3-to-1 margins in the other three Western Maryland counties where voter registration favors the GOP. For example, in neighboring Washington County, Delaney lost to Bongino by more than 10,000 votes. Delaney also lost by nearly 5,400 votes in Allegany County and 4,400 votes in Garrett County.

Fortunately for Delaney, he was able to wipe out those losses by taking Montgomery County, a heavily Democratic county. But his 20,000-vote victory there would not have been enough to put him back in office had Frederick County voted along similar party lines as the other three Western Maryland counties.

Even Chris Van Hollen, the Democratic congressman who represents northern Frederick County, was pounded by local voters. Van Hollen, who was easily reelected to a seventh term, trailed a relatively unknown Republican candidate by more than 10,000 votes in Frederick County.

So why did Delaney fare better in Frederick County than expected?

We think it's because Frederick County's voter turnout (51 percent) was not only higher than the state average of 45 percent, but also higher than any of the other counties in the 6th District, including Montgomery County (39 percent).

And one of the main reasons it was higher was the county's intense interest in electing its first-ever coun-

ty executive in a race that pitted the Republican Young against Democrat Jan Gardner.

As we now know, Gardner trounced Young on Election Day, in large part because Democrats in Frederick city precincts turned out in large numbers to make sure Young didn't rise to the county's highest elected position. And an examination of those same precincts showed they also voted heavily for Delaney — in many cases in the 60 percent or higher range. In other words, Delaney benefited greatly from a surge in voters who supported Gardner — and we're safe in assuming they weren't conservative Republicans.

To give Delaney credit, it does help that he is seen as pragmatic and not political, and there's no question he has represented the county well during his first term in office. And for that, voters rewarded him with another two years as their congressman — with some help, of course, from Gardner supporters who turned out in large numbers.

Deposition of Plaintiff O. John Benisek

Q. Can you please state your full name.

A. O. John Benisek.

Q. I'm going to give this to you.

(Deposition Exhibit Number 14 was marked for identification.)

BY MS. KATZ:

Q. Just take a look and tell me if you [6] recognize this document.

A. I do.

Q. Was this the Deposition Notice that you were served with?

A. I do not recall getting it by mail. Okay?

Q. Sure.

A. But I have seen it.

Q. Okay. Great. Your lawyer showed it to you?

A. Yes.

Q. Have you ever been deposed before?

A. I don't think so, no.

Q. I'm just going to go through a few housekeeping rules. This court reporter is trying to take down everything we say. So we should be careful not to try to talk over one another.

I will wait for you to finish an answer before I ask a question. And I'll ask you to wait until I finish a question to give an answer. Also to give verbal answers for the benefit of the court reporter.

If you do not understand a question that I [7] ask you, please tell me. I'm happy to rephrase it or give you a different question. If you don't ask me to rephrase something, I'll assume that you understand the question. Okay?

A. Okay.

Q. Great. We're going—this shouldn't take very long. Try to make it through without a break. But if you need a break for any reason, please let me know and we'll find a good place to stop.

A. Okay.

Q. Are you taking any medication today that might affect your ability to recall events or to testify today?

A. No.

Q. Thank you. Where do you live?

A. Right. As the Notice of Deposition states, 11237 Kemps Mill Road, Williamsport, Maryland.

Q. How long have you lived there?

A. 1990.

Q. What is the highest level of schooling you attained? [8]

A. That would be an MBA.

Q. Where did you attend high school?

A. Aberdeen High School.

Q. Near the Proving Grounds?

A. Yes. Aberdeen High School is the only one.

Q. Where did you attend college?

A. University of Maryland, College Park. I missed the riots.

Q. Okay. It's a beautiful campus. Was it beautiful when you were there?

A. Oh, yes.

Q. Where did you attend graduate school?

A. George Washington University.

Q. Just to be clear, that's where you got your MBA?

A. Yes.
Q. What year was that?
A. Do I have to answer that?
Q. If you can't remember, that's fine. No problem.
A. Maybe '72 I think. [9]
Q. What kind of work do you do?
A. I do property management.
Q. Are you self-employed?
A. Yes.
Q. How long have you been self-employed by property management?
A. Over 20 years.
Q. Oh, wow. Okay. Great. Prior to that, what did you do?
A. I worked for different contractors, at times state inspector, State of Maryland, building project in Hagerstown. And at the same time, self-employed during that time too.
Q. Is it sort of all involving different areas of real estate?
A. Yes.
Q. Have you ever been employed in any other field?
A. Just about a year and a half in engineering.
Q. Oh, okay.
A. My major was in civil engineering, so I [10] gave it a try.
Q. Understood. Do you recall when you first registered to vote?
A. It was probably when I was 21 years old. Okay?
Q. Uh-huh. Do you recall what year that would have been?

A. I'm like a woman who doesn't want to divulge her age. 1965, '66 maybe.

Q. In the mid '60s. Where were you living at that time?

A. College Park. I was a student.

Q. Were you registered to vote in College Park or where your home was? Or were they one in the same?

A. I don't recall.

Q. Do you recall what congressional district you were in at that time?

A. Whatever College Park is in perhaps. If not that, it would have been Harford County.

Q. Harford?

A. Yes. [11]

Q. Is that where you grew up?

A. Yes, Aberdeen, Belcamp.

Q. Do you recall the first election you voted in?

A. I think so. It was probably Nixon.

Q. It would have been a presidential election?

A. Oh, yes.

Q. That would be the first time he ran? Do you recall what year it was when you first voted?

A. No.

Q. After you registered to vote—

A. We can figure it out if you want to. Like Kennedy took over—Johnson was back in '64, so it would have been the election of '68 probably, presidential election. McGovern was running at the time. He got plowed under. Enough. Go ahead.

Q. Do you recall if when you voted in that presidential election you also voted for your congressional representative?

A. I do not recall.

Q. Do you have any reason to believe that you [12] wouldn't have voted for every office?

A. No. Because the ballot has a lot of candidates on it. I probably voted for the rest of them too.

Q. Is that how you tend to vote, vote for all the choices on the ballot?

A. I try to stay informed of the candidates and vote for the different candidates. But don't take me back 40 years, 45 years.

Q. How about just—if we talk somewhat generally about your voting habits at the time. Do you recall being a regular voter during the 19—

A. I voted pretty consistently for the major office, yes.

Q. That would have been true from the time you registered up through the present day?

A. Yes.

Q. Do you recall when you first moved to a residence that would have been in the Sixth Congressional District?

A. It would have been in 19—well, I started working in the Hagerstown area, Sixth [13] Congressional in 1976. And I moved into that area in '78.

Q. Do you recall who your congressional representative was at that time?

A. Probably Goodloe Byron. Then he passed away. Then Beverly took over. Roscoe Bartlett might have been in at the time too. I do not recall.

Q. Do you recall ever voting for Goodloe Byron?

A. I don't recall. Just trying to think.

Q. Do you recall ever voting for Beverly Byron?

A. I don't think I voted for Beverly. I think I voted for the opponent.

Q. When you say opponent, do you mean the Republican candidate?

A. I kind of was—grew up in a Republican philosophy. I would question the reasoning of it. I found the candidates were solid for the most part and I voted in that direction. So predominantly Republican. [14]

Q. Do you recall ever voting for a candidate who was not a Republican?

A. I certainly did. Over recent times, especially in the local elections where I—when I study the candidates and I perhaps know them from their activity or their success, if it's LeRoy Myers down in Annapolis or some other. And they're candidates with a good solid philosophy, conservative, I would vote for the democratic candidate. Yes.

Q. Who is LeRoy Myers?

A. LeRoy Myers is a contractor/builder in the Clear Spring area who was also a delegate in the Maryland General Assembly.

Q. So you recall voting for him to be a state delegate?

A. I think he was in my election district. Okay?

Q. Okay. Sure.

A. It's amazing you see all these people on the ballot. All the sudden you go to your precinct to vote and they're not in there because they're [15] not in your precinct. They're in your district.

Q. Do you recall ever voting for any other democratic candidates?

A. No.

Q. So he would be the only one you think?

A. One or two local candidates if it was a school board or county commissioner or something like that. The party affiliation didn't matter. It was what they represented that mattered.

Q. We spoke a little bit about this, but can you go into more detail about when you say what they represented that mattered, what does that mean?

A. I find on a local level, you get to know a person if he is BS'ing you. If he wants to loot the local treasury for a lot of frivolous things, which I would call frivolous.

Case in point, we have a lot of public housing in Washington County. We have several prison systems too. And a lot of the prisoners and their families will tend to stay there. And they are on the public dole. [16]

I in my property management have to buy property, maintain it, rent it out and compete with tenants who get subsidized into public housing. I pay for that public housing. That's what I call just bad politics to me.

Why should I be competing with people, political people who want to spend our money on something that I don't agree with?

Q. Can you think of other examples of I think you used the word "frivolous"—

A. Yeah. Sure.

Q. —frivolous spending?

A. They were going to tear down the municipal stadium in Hagerstown a few years ago and spend close to $15 million, most of it would have been taxpayer's money, to put up a new one.

And luckily they decided to interest the public in what their project was going to be, so they ran tourists through the existing city and they had a big campaign to show you what they were going to build in its place.

And those of us who had any common sense [17] realized that was a waste of money. Sure enough, they didn't get their funding. The administration was voted out of office, partially because of that. And the state of its standing, it's still used by the Hagerstown sons, things we don't feel should be wasted—money wasted on.

Q. When you say the administration was voted out of office, who were you referring to specifically?

A. Well, Bob Bruchey and several members of the city council. Also some of the Washington County representatives were voted out.

Q. Local politicians?

A. Uh-huh. But you know, this also works on a state level. When we have money that is not allocated based on the—they have to use a parity to allocate money, and we do not get a parity of 100 percent, but rather a 70 or 60 percent of money, tax money that was put out comes back to Washington County.

Our voice, our elected power, doesn't have a chance to bring back the appropriations that [18] should be coming back to Washington County.

Q. What upsets you about that?

A. What's that?

Q. What upsets you about that circumstance?

A. If I'm paying taxes, the money we pay should be coming back to our area, and it isn't. It's going

perhaps to the urban areas, Rapid Transit in Baltimore, something like that, Montgomery County.

Q. Are you registered as a member of a political party?

A. I am.

Q. Which one?

A. Republican.

Q. Have you ever registered with a different party?

A. Yes, independent.

Q. When were you registered as an independent?

A. Probably just prior to the election of 1984. Do you remember that one by any chance?

Q. Sure. I was 10, but I definitely remember [19] it.

A. And the candidate was—

Q. In 1984, it would have been Reagan and Mondale.

A. Right.

Q. Yeah.

A. And I wanted to vote for—they were having a runoff between Reagan and Anderson I think. So I changed party affiliations then to independent.

Q. I see. So you became an independent then?

A. Uh-huh. And then back.

BY MS. KATZ:

Q. And then back?

MS. WEBB: Objection; mischaracterizes his testimony.

BY MS. KATZ:

Q. When did you become an independent?

A. Probably 1984.

Q. And when did you then return to being registered as a Republican?

A. Prior to 2011. [20]

Q. So you were an independent from about 1984 to 2011?

A. Yeah. Voting Republican.

Q. Sure. But you were registered as an independent?

A. Uh-huh, for a good while.

Q. I know we've talked about local politicians that you—or one local democratic politician that you voted for. Do you recall ever voting for a democratic candidate on the state level?

MS. WEBB: Objection; asked and answered.

A. I don't recall.

BY MS. KATZ:

Q. You don't recall? Or on the federal level?

MS. WEBB: Same objection.

A. I'll go with the objection.

BY MS. KATZ:

Q. No. You have to answer the question, unless she directs you not to answer.

A. On a state level? No, I don't recall. [21]

Q. On the federal level?

A. Well, that would probably be Goodloe Byron, right? He was a democrat.

Q. Right. So do you remember voting for Goodloe Byron?

A. I think so.

Q. Do you remember if you ever voted for Beverly Byron?

A. I think I said I didn't.

Q. Do you recall if you voted for Goodloe Byron more than once?

A. No. I think he passed away shortly thereafter. So I think I would have had only one election cycle.

Q. Did you vote for Roscoe Bartlett when he first ran for office?

A. I did, several times.

Q. Did you ever vote for someone other than Roscoe Bartlett when he was on the ballot?

A. I don't think so. There weren't any good alternative candidates.

Q. Did you vote for him because of the lack [22] of other good alternative candidates?

MS. WEBB: Objection; vague.

BY MS. KATZ:

Q. Well, let me rephrase. You just noted that you thought there were a lack of other good alternative candidates. Are there other reasons that you voted for Roscoe Bartlett?

A. I think he represented western Maryland very well.

Q. How is that?

A. In trying to get, I'll call them earmarks or capital spending to go towards western Maryland. And I could contact him through the correspondence or phone calls. Of course, you get somebody besides him on the phone. But they dealt with you decently. I found that acceptable.

Q. Do you recall when you contacted Roscoe Bartlett's office, were you calling to talk about a political issue?

MS. WEBB: Objection; vague.

A. I don't know exactly what a political issue would be. If you have—you want a [23] Congressman to look into somebody's Social Security check not coming through, you know, for him to look into it. Because they do a good job of pushing that bureau-

cracy sometimes. That's probably the kind of stuff I would call on behalf of perhaps tenants.

BY MS. KATZ:

Q. Do you recall with any specificity why you would have contacted his office?

A. That would be one reason.

Q. So you said you would call on behalf of a tenant regarding a Social Security check?

A. Yeah.

Q. Any other specific things you can recall?

A. I cannot recall any specific things besides that.

Q. Anything specific to yourself?

A. I generally didn't ask anything of myself.

Q. Do you remember who you voted for in 2014 to be your congressional representative?

A. I think—I'm not sure about this, if Dan Bongino was on the ballot at the time. I would [24] have voted for him. I'm pretty sure I didn't vote for John Delaney.

Q. Why are you pretty sure of that?

A. Because I don't think he was reflecting the values we have in western Maryland. He's more for Frederick and Montgomery County philosophy.

Q. What does that mean to you—

MS. WEBB: Objection; vague.

BY MS. KATZ:

Q. —that he's more for Frederick and Montgomery County values? What does that mean?

MS. WEBB: Same objection.

A. Well, originally he wasn't in our district. Okay. Do you recall the way the Sixth District was changed?

BY MS. KATZ:

Q. Uh-huh.

A. We have a population in Washington County of approximately 220,000 people. So that when this new redistricting occurred, 65,000 Republican—registered Republican voters were taken out of our district. And 30,000 democrats were brought in. [25] That's 95,000 voters that we lost representing our district.

Now, Delaney did not get the majority in Washington County. I think he got everything else, Montgomery County and the rest of the contiguous areas. Okay. So that he didn't reflect our values and conservatism.

Q. What does that mean that he didn't reflect our values?

A. Well, let's face it, when a candidate is representing maybe half a million people, voters, he is going to be inclined to do a good representation for the majority in that area. When you take out all those registered voters out of our area, he doesn't see much need to pay a lot of attention to a smaller group of voters that probably didn't vote for him.

Q. Have you ever—

A. My vote was watered down because of this. Let's just put it plainly.

Q. Have you ever contacted Congressman Delaney's office? [26]

A. I did. I tried to on—I know by an email. And I got a response of like the pat political thing. We're representing this and that. We're doing this and that. It was, well, quite frankly pretty much what you get from the Speaker Boehner or somebody like that, which I've always done in the past. You get just a little stereotype answer.

Q. Do you recall what the subject matter of your email that you sent to John Delaney's office?

A. I do not recall right now. I think I was asking about one of the issues about the spending for our area.

Q. Do you recall the specific issue about spending?

A. No.

Q. Do you recall what your concern was about spending, what prompted you to send the email?

MS. WEBB: Objection; asked and answered.

A. Huh-uh. A lot of things. It could be for roads. It could be for schools, disagreement with the common core, something like that, okay. Or if [27] they wanted to build another prison in our area, I would have probably gotten in touch with them objecting to that. Those things come to mind.

BY MS. KATZ:

Q. The qualities that you look for in a political candidate?

A. How many do you want?

Q. Start from the top.

A. Okay. Let's just start with the major one. If you're going to make some campaign promises, stick by them. Don't get corrupted once you get into office and do a self-serving just for perpetuating your stay in office.

I'd like to see the quality in a candidate that lives by the same rules we have to live by. Okay. If we have to pay for our insurance, let them have the same insurance that we have, same insurance plan.

If they get a high pay based on—maybe the pay should be according to their productivity, okay,

like in business, civilian business. I don't see that happening. [28]

A lot of perks that they get that we do not, and I'm not going to name them. I think you're aware of them, perks that are bestowed upon the political arena.

Q. What sorts of perks?

A. Huh?

Q. What sorts of perks?

A. Well, perhaps a certain amount of immunity, being able to use state or federal transportation. It could be even having bodyguards, then telling us we don't have a right to protect ourselves, First Amendment. Second Amendment rights, right to own a gun. Okay. They try to breach that from us. Yet they have bodyguards to protect them. That's a perk. Okay.

Q. Before we were talking about candidates, you mentioned the word "conservatism." What does that mean?

A. It's a belief. Anytime you have an "ism," it's a belief.

Q. What does that mean to you as a belief?

A. I'm glad you asked what it means to me. [29] Okay. I feel we are being overtaxed. I feel this tax money is being wasted. Like I mentioned, public housing building, which competes with my private business. Okay. I don't like that.

I feel that when a person makes certain kinds of statements when electioning, they ought to go and stick by them. Call it profiles and courage to be able to stand up beyond what the general modality of opinion is and stick with the convictions. Have some ethics.

Q. Are you thinking of anything specific when you're talking about sticking by campaign promises?

A. Sure. I just mentioned taxing, spending. Can you be more specific than that?

Q. I'm sorry, I meant specific to a particular candidate who may have made a campaign promise that you feel he or she then abandoned.

A. To a degree, a lot of them. Perhaps most of them have done that to get elected. I don't think that Republicans, nor Democrats are immune from this. So therefore, you have to pick very specifically certain ones. Perhaps Neil Parrott, [30] delegate from our area and the Maryland legislature, has these characteristics, these traits, okay, good ones.

Q. Thank you. Have you ever attended an event held by your congressional representative that you recall?

A. Yes.

Q. Can you tell me what those were?

A. Are you talking about the federal congressional?

Q. Yes.

A. Probably just get together like where they meet the candidate or a debate, okay. That would be a congressional event. We've had debates in the Washington County. The Congressmen have been there to debate, given questions, how they answered them. Of course, that helps us make up our minds.

Q. Do you recall when that was?

A. Well, there would have been one two years ago when Dan Bongino ran. At the time, Delaney didn't bother showing up. I think I've seen several others before that. Yeah. [31]

Q. Do you recall who you voted for in 2016 to be your congressional representative?

A. That would have been Dan Bongino. Am I right on that?

Q. I think you said you voted for him in 2014. Do you recall who you would have voted for in 2016?

A. Who ran? I'm so infused with the presidential election that I lose track of the congressional ones. I'm pretty sure he didn't win because Delaney is in our area. He got it.

Q. So you recall that you did not vote for John Delaney?

A. Yeah.

Q. Do you think you would have voted for the Republican candidate in that race?

A. Yes.

Q. Have you ever volunteered on a campaign for a political candidate?

A. Just local, Washington County Commissioners and the state delegate, like Neil Parrott. Hillary didn't ask me, neither did [32] Donald.

Q. Did you vote in the general election for President in 2016?

A. I did. And I would like to make America great again.

Q. Does that indicate that you voted for Donald Trump?

A. Isn't it obvious?

Q. I'm asking.

A. Yes.

Q. When was the first time you became interested in the topic of redistricting?

A. When I first got wind of it, that the state of Maryland wasn't going to do this, I volunteered for the petition for a referendum to that. And I think I managed to get about 100th of the total votes signing on that petition. And some friends of ours got equal amounts. Seriously think that this is a joke, this redistricting, after I saw the maps.

Q. So that was after the law was passed?

A. Actually the law was passed, but it had to [33] be voted on still.

Q. Right. So it was petitioned to referendum?

A. Yeah.

Q. So you became involved—I just want to be clear. You became involved or interested in the issue after the governors had signed the bill into law?

A. Yeah. Because you know it didn't get much attention. There was a committee elected, I think five, four Democrats, one Republican, Kane, who was a one-term Republican who was not in office at the time the governor appointed. Kane never checked with the representatives, the Republican party to get their point of view on this.

Q. How do you know that?

A. I stay informed a little bit perhaps.

Q. How were you informed of that?

A. Well, once you start associating with people who are wanting to challenge this gerrymandering and you are out garnering votes, signatures for the referendum, you start to meet [34] people. And you see the different flavor of western Maryland, what their values are.

Q. What people informed you about James Kane not talking with any Republicans?

A. Should I have not known that?

Q. I'm just trying to gauge the depth of your knowledge.

A. I don't know. But you start to wonder—I don't believe if they had a—for some things like for the common core, they had public hearings around the state of Maryland. If Columbia Gas wanted to raise the rates, they had to have public hearings, which came into our area.

I don't recall any public hearings on the redistricting in our area. Do you recall? Were there any in our area?

Q. So are you telling me that you didn't know about any public hearings?

A. I don't think there was a good public representation and disclosure about this prior to the governor's enacting this.

Q. So I take it then you did not testify [35] before the Governor's Redistricting Advisory Committee?

A. No.

Q. Did you post any public comments after the plan was revealed to the public?

A. I was willing to go ahead and take the petition to garner signatures. It's a pretty public comment.

Q. Do you think that you were harmed by the 2011 congressional redistricting plan?

A. Yes.

Q. How so?

A. Do you recall my mentioning 95,000 voters that had switched? So if I was one of the voters, Republican voters, and all of a sudden there are four democratic votes, that's a dilution. I don't have as much political sway in my opinion.

What is worse than that, once you get a party entrenched in government after this redistricting, what incentive have those politicians to make a correction to this redistricting? They don't have any incentive. [36] They're in office. They're getting the benefits of office, be it financial. You know, they can become lobbyists afterwards and continue in their life afterwards, and honor and everything else that is bestowed upon a politician so to speak. Yeah. I agree with your expression.

So there is no reason—it's not self-correcting once it's implemented. What's worse, it's going to be almost impossible to make a correction to it by the voters, because their vote still is not there to count. It's been diluted.

So you have an issue that is bad. It's not going to be corrected by the politicians. It's going to be terribly hard for the people to make correction.

I'm harmed by that. It's awfully hard to make a change, a correction. Do you follow that?

Q. Sure.

A. Okay.

Q. If Governor Hogan is reelected and is involved in this process, do you think that there will be greater likelihood that you'd be pleased [37] with the next round of redistricting?

MS. WEBB: Objection; vague.

A. I'm kind of confused by that question. That's kind of a speculative way of answering. Can you make it more direct?

BY MS. KATZ:

Q. Well, as you were talking about political parties being entrenched as a result of redistricting, and now Maryland has a Republican governor, so I'm

trying to gauge whether you would be more likely to vote for Governor Hogan so that he will be involved in the redistricting, the next round of redistricting?

MS. WEBB: Objection; calls for speculation, vague.

THE WITNESS: Do you need me to answer?

MS. WEBB: Yeah, you should answer.

A. Listen. If it's a Democrat or Republican and they start to gerrymander and take away the value of a citizen's vote, then I'm against it. I don't care what party they are. They're scoundrels. [38]

But right now, Hogan stands for something that Candidate Brown did not. Plus he had an albatross around his neck O'Malley. If he was going to follow O'Malley's track record in what he had started, no wonder he lost. We had enough of tax and spend.

I believe—I was against starting the casinos in Maryland. I thought it brought a lot of heartache and grief for people to just gamble away thinking that they'll make it, spend their money that's supposed to go for medicine, food, rent, housing. And that money was supposed to go to schools.

Where did the money go? O'Malley put it a general fund to spend to try to balance the budget. He didn't spend it for schools. So if that's the ilk of a politician, he should be out of office, and he was; not eligible to run again probably. But his protege Brown was. We saw through that.

BY MS. KATZ:

Q. How did you become involved in this [39] lawsuit?

MS. WEBB: I just caution you not to reveal any communications you may have had with your attorneys. Other than that, you can answer.

A. I had a chance—I think Neil Parrott passed around a paper saying that there is—well, after the initial petition for referendum, I was incensed and feeling it sure would be a nice way to get involved. What can I do to stop it. And then Neil Parrott passed around a paper saying, Are there any people who would like to represent Washington County in this. I said, Yeah. I'll stick my neck out.

BY MS. KATZ:

Q. And that was when you originally filed the lawsuit in November 2013?

A. I think it was. I think it was.

Q. Just to be clear, that was in response to Neil Parrott soliciting your involvement?

A. No. He passed around a flyer to different groups saying, Anybody interested. He didn't come out, speak to me directly or anything like that. [40]

Q. I see.

A. No. I just picked up on the information there and I called him back, said, Yeah. I'll sign in on this. When you start to get incensed and there is a deep burning anger in you with what's going on in the federal and state legislatures, some people just give up and accept it. My vote doesn't count. Well, I don't feel that way. I feel we can do something.

Q. Do you recall the pleadings that were first filed in this lawsuit in November 2013?

A. I got copies of them sent to me because I was on this. Yes.

Q. So you weren't involved in drafting the initial Complaint in this case?

A. No.

MS. WEBB: Objection. I'm not sure where you're going with this.

MS. KATZ: Is that a—not a valid objection.

MS. WEBB: I don't want to get into any attorney-client—[41]

MS. KATZ: They were pro se.

BY MS. KATZ:

Q. Were you represented by an attorney when you first filed this lawsuit?

A. Personally?

Q. Any of the plaintiffs have a lawyer when you first filed this lawsuit?

A. I do not know.

MS. WEBB: I'm unclear on the time frame.

MS. KATZ: November 2013.

BY MS. KATZ:

Q. Pro se lawsuit that was filed, do you recall that?

A. I remember the date because I was getting the papers. I would read it and sign because I was a plaintiff.

Q. Do you recall who was responsible for drafting those pleadings in November of 2013?

MS. WEBB: Objection. I think this is calling for speculation and getting into legal terms that he may not be familiar with.

MS. KATZ: He was a pro se plaintiff in—[42] three pro se plaintiffs in a Complaint filed in Federal District Court of Maryland.

BY MS. KATZ:

Q. I'm just asking about whether you were involved in drafting those pleadings. But I think you said no.

A. No.

Q. Do you recall the substance of those pleadings? What was being alleged in that first Complaint that was filed in November 2013?

A. Basically they're taking away our rights by diluting our votes, by having a thin thread of line—making certain areas contiguous that were not.

Q. Sure. Were you provided any spreadsheets [9] by the attorneys?

A. Spreadsheets? No.

What I did request was access to a person who was doing technical GIS work for one of the other experts in this case. And I said if this person can process or organize the data that I want to have in the form that I want it for me, which would require GIS skills and technology, basically, he could be fulfilling my needs for data at the same time he was fulfilling the needs for another expert in the case.

Q. And who was that expert? Who was that person?

A. That was the political scientist, Michael McDonald.

Q. Sorry. Who was the GIS expert?

A. Oh, the GIS expert, I'm blocking on his name. His name was—his last name was Amos. First name, I'm trying to remember.

Q. Did he end up providing you with material?

A. He did. He is a Ph.D. student who works with Professor McDonald and had—based on my [10] discussions with him, I could tell that he had extensive experience extracting the data that I normally use and organizing it in the form that I normally want it.

In this case I wanted it organized in a particular form that I would have normally gone to my GIS guy, because it required GIS skills that I understand but don't actually possess. So I gave him detailed instructions on how to do it.

MS. RICE: Okay.

A. And that was the person I guess that was arranged through the attorneys. So you could consider that to be something that they arranged for me to have.

* * *

Q. Okay. Let's turn to page 67, Table 3.

A. All right. So we don't need to go back over the testimony that you already gave about what Mr. Amos provided you with. But I was wondering: Is there anything else about—to say about how you came up with the data in Table 3?

MR. MEDLOCK: Objection. Vague.

A. I have nothing further to add other than to say I took the data and I tabulated it in the way that I wanted to tabulate it. And I identified the total number of census places, and I distinguish between the incorporated and the unincorporated so that I could get some sense of what kinds of places were being split.

There is a very stark pattern throughout. There is no doubt in my mind that established [137] communities of interest were split to a remarkable degree far more than they were before redistricting occurred and far more than could possibly have been necessary in order to simply equalize the population.

Q. Were you aware that the Census prepares tables of census-designated places by congressional district?

A. Yes, I'm aware of that.

Q. And did you examine those tables?

A. I did not examine those tables on the retail side because I knew that I needed them both with respect to the congressional districts that exist-

ed—would have existed in the present—that is to say, when I would have looked at the retail side of the Census Bureau's data provision.

But I also needed to know where they were before the census—before they were in the current district. In other words, the Census Bureau will tell me, for this particular census place: What is its current congressional district? And the answer is: It's the 113th Congressional [138] District.

And I say: But I want to know what was it before that. The answer would be: Well, that is a historical fact that we don't publish on our website. That is something you have to assemble yourself with a GIS system and go through the tedious task of showing where it was with respect to prior boundaries.

So I wouldn't normally think of going to the Census Bureau for both parts of the table. I could only get half of what the table was. And even then, it would not be an effective use of my time because I was not a GIS person. I would have to do it place by place. It would be a very tedious task.

* * *

[140] * * *

Q. What year was the 111th Congress elected?

A. I don't really recall.

MS. RICE: Okay.

A. It was before the 113th. I know that.

Q. And what year was the 113th Congress elected?

A. Again, it's not something that comes to mind immediately.

Q. Okay. Why did you choose those two congresses?

A. Because that was, it's my understanding, the pre-redistricting and post-redistricting.

Q. There were several congresses pre-redistricting. Is that correct?

A. Right. Right. Right. The—this—I'm trying to remember why we picked that. That may be it was closer to the 2010 census. There was a reason for doing that. I don't recall exactly why.

* * *

[148] * * *

Q. Certainly. That might lead to a question that I had in understanding the table. Are the cities, towns and census-designated places the ones that were identified in connection with the 2000 census or the 2010 census?

A. My understanding is that they were identified with reference to the 2010 census. But, again, I would have to check and see how—what the—you know, what the documentation shows that Mr. Amos has provided me with.

* * *

[151] * * *

Q. But you can't provide me now with the definition that you used to prepare that table?

A. Not without going back and reviewing Brian Amos' technical documentation, which I would want to do first.

* * *

Q. —of Exhibit 202?

Do you know which cities were included within the 111th Congressional District 6?

A. Not offhand. I would have to check back with the spreadsheet that I used to assemble the data

that I used that went into Table 3. I don't [153] have that with me.

Q. Is that also true for the 113th Congressional District 6?

A. Yes, it is.

Q. And is that the same answer for towns?

A. Correct.

Deposition of Michael P. McDonald, Ph.D.

Q. What do you understand vote dilution as used in this question to mean?

A. I used a paradigm that is common in the racial gerrymandering litigation world where that's something I've been involved with in prior cases, and so, to my knowledge, no one has looked at vote dilution in a partisan context. So it seemed natural to me that the vote dilution context for racial gerrymandering, which is a group of people that we are talking about, races or ethnicities, could be applied to another context of groups we are talking about, Democrats and Republicans.

The vote dilution, usually what we are [16] talking about is taking the votes of a group, identifying a group of people and drawing the district in such a way that denies that group the ability to elect a candidate of their choice. So that's the legal meaning, not the legal, that's how I understand it in terms of my expert work in racial redistricting cases, how, what the meaning of vote dilution is.

* * *

Q. I'm sorry. I'm sorry. I'm sorry. I skipped. That was my reading.

Let's start over.

"This vote dilution had a concrete impact on the electoral outcomes because Republican voters in the adopted district have, as a consequence, been unable to elect a candidate of their choice."

Is that vote dilution?

MR. STEIN: Objection. Vague.

A. That's moving from the vote dilution to the facts. So one way to measure whether or not [19] the vote dilution has had an effect, which is the question that was posed up in the first part of it, is to look at whether or not the affected group has been able to elect a candidate of their choice. And in the three congressional elections that have occurred since the adoption of the redistricting plan, the Republican voters in the Sixth Congressional District have been unable to elect a candidate of their choice. And one of those elections, in particular, 2014, was an exceptional year for the Republicans. There was a national wave in their direction. If there was going to be an opportunity for the Republicans to be able to win or be able to elect a candidate of their choice in that particular election year, that would have been it, and they were unable to do so.

So in the best electoral circumstances, even in the best electoral circumstances, Republicans have been unable to elect a candidate of their choice in the Sixth Congressional District.

* * *

[24] * * *

Q. Sure.

I think that, and I don't mean to mischaracterize your testimony, so please correct me if I misunderstood, I think that you mentioned, when speaking about vote dilution analysis in the racial gerrymandering context, that a district may or may not have been drawn to protect the voting rights of minorities.

Would that same analysis of why the district was performative for Republicans be something that you would examine?

* * *

A. * * * So the vote dilution analysis is really about sort of the relative polarization that is happening and the level of support that the Democrats and the Republicans have in this context for their candidates.

The effect part of it is talking about, so once we know that vote dilution is occurring or there's racial polarization that's occurring, a district has been drawn in such a way that because there's not sufficient crossover voting to elect a candidate of choice, what adverse effect it is having on the group that's in question. In this case, the Republicans.

And we have two different districts. We have a change where we actually dramatically changed the composition, the parts and composition of a district. [27]

And so looking at the—we actually do have a counter factual in a way because it's a district that should have been very similar or could have been very similar to the one that could have been enacted. So that provides some evidence about what was possible in the prior plan versus what was actually adopted.

And as additional information, I'm sure we'll get to it in the course of our discussion today, there's also an alternative plan I put forward on how you might go about drawing the Sixth Congressional District and the Eighth Congressional District in a different manner that would not result in vote dilution.

* * *

Q. And did you do any probabilistic analysis of effect in this report?

MR. STEIN: Objection. Vague.

A. I did a deterministic analysis because we were able to look at the three elections, and the endogenous elections, and the seven exogenous elections, and it came to an overall, formed an overall opinion about the concrete adverse effect that the changes had brought upon Republicans [35] within the Sixth Congressional District. It's not a statistical analysis in the fact there's some sort of regression analysis or something of that nature. It's one that's based on the actual election results. So in that way it's a deterministic, not a probabilistic analysis.

* * *

Q. Did you undertake any analysis of whether Republicans are historically unable to form blocs with crossover voting from non-affiliated voters in Maryland?

A. Within Maryland, no. Within the Sixth Congressional District, also, I did not do that. However, one could infer, if one wished to do that sort of analysis, you could look at Table 2 or simply look at the election results.

When I draw my opinions about whether or not Republicans are able to elect a candidate of their choice, I'm essentially doing that sort of analysis, although it's not framed exactly in crossover votes from Independents, separately from Independents or from Democrats.

In order to be able to elect a candidate of their choice in the 2012, '14, or '16 election, we would have been able to observe, if there were sufficient crossover votes, that a Republican candidate would have been elected. And so I can infer from the fact that a Republican was not elected

in any of those three [49] Congressional elections that there were insufficient crossover votes from any source, be it from Independents, or from Democrats, to the elected Republican candidate of choice.

* * *

[50] * * *

Q. Did you undertake any analysis of non-affiliated voting behavior in Maryland?

MR. STEIN: Objection. Vague.

A. Well, there are some numbers sitting here in Table 2. So there is some, there is an analysis there.

As I said previously, I'm drawing inferences about crossover votes would have been from any source, either Independents or Democrats.

* * *

[52] * * *

Q. Okay. And did you look into any of the electoral circumstances of any of the individual races?

A. No, I did not, other than the underlying partisanship measure we have in the district.

Q. Did you examine incumbency effects in your analysis?

A. I did not.

* * *

Q. Do you know whether the populations of the districts are the ideal population?

MR. STEIN: Objection. Vague as to districts.

Q. The alternative districts.

A. Yes. I did not say this earlier, so I need to correct now, Mr. Amos created this map at my di-

rection. And it's the concept and an idea that I had and I directed him what to do.

He did produce reports of the district. He did, as I recall, zero out, what we call [54] zeroing out the population. It would have been within one point of the ideal, one person of the ideal, not point.

If it's not, you can create a similar, substantially similar map by adjusting that line. That is, if we look at figure 8 on page 25, in my vast experience of drawing maps, it would not be difficult to make trades between these two districts to balance that out. And I would also say that this is one map, among many, that could be created that has this concept embedded in it.

Q. What did you—we talked about one thing that you directed Mr. Amos to do. What were the other things that you directed Mr. Amos to do in constructing this alternative plan?

A. I just had him merge together the Sixth and the Eighth Congressional districts or basically wipe them out so that we just had a cookie cutter then of just the western portion of the state that was formally the Sixth and the Eighth Congressional District, and then I directed him to draw a line through Montgomery [55] County that would, as straight of a line that was possible, knowing that census geography doesn't really necessarily have straight borders all the way. You have to have a nice road or something like that to make a perfectly straight line often. So knowing that that didn't exist, I asked him to do it as good as he could while equalizing the population between the two districts.

Q. And what software did Mr. Amos use?

A. He used Maptitude.

Q. What data did Mr. Amos consider?

MR STEIN: Objection. Vague.

A. He only considered the census data. * * *

* * *

Q. Sure.

For Democratic residents of the portion of Montgomery County that under the 2002 plan was in the Eighth District, who are now moved into the Sixth District, are their votes diluted under this alternative plan?

MR. STEIN: Same objection.

A. Yes. So you are asking me to draw a legal conclusion, why counsel is pointing out—

Q. I don't mean to be asking you to draw a legal conclusion. I just mean under your understanding and how you use both dilution in these analyses.

A. The Democratic voters that were formerly within the Eighth District would have their [63] ability to elect a candidate of their choice diminished, yes. You would be correct.

Deposition of Plaintiff Jeremiah DeWolf

Q. Could you please state your name for the record?

A. Yes, ma'am. Jeremiah DeWolf. [6]

Q. And today I think we're probably going to try to make it through without a break because I don't think it will take very long.

But if you need a break for any reason, just let me know and we can stop and take one. The only thing that I ask is that you answer whatever question I've just asked before we take a break.

A. Okay.

Q. But let me know if you need one.

Please let me know if you don't understand a question that I ask you. If you don't say something to me, I'm going to assume you knew what I said and you understand.

Please also try to give verbal answers. And we'll both try not to talk over one another to make sure that the court reporter can hear us.

And have you taken any medication today?

A. No.

Q. And what's your current occupation, Mr. DeWolf?

A. I'm a field service representative for Gettinge USA. [7]

Q. I'm sorry, I didn't hear the name of the company?

A. Gettinge USA.

Q. And what do you do as a field service representative?

A. It's electrical mechanical work with biosurety aspects.

Q. And can you tell many biosurety is?

A. It's for biological containment, infection—infectious disease control. So equipment, stuff like that.

Q. Okay. So do work for a—or do you do works for a lab, I guess? Is that—

A. The company that I work for is contracted by the different, you know, entities and we do work on behalf of the customer at the customer's facility.

So I work at Fort Detrick. So we do what the customer needs for biocontainment and biosurety.

Q. Okay. Great. And what was the highest level of education that you've achieved? [8]

A. Well, I finished high school, grade K through 12. And—but I've had a lot training in the Navy. So—

Q. Great. Excellent. And when did you serve in the Navy?

A. July 1999 through July of 2007.

Q. And what was your the highest rank that you attained?

A. E-6.

Q. When did you first register to vote?

A. In—

Q. Just period.

A. I registered to vote in—that would be in 1999, when I graduated high school. I registered from my high school at the age of 18.

Q. And where did you live then?

A. I lived in Lyons, New York.

Q. And when did you first register to vote in Maryland?

A. In 2007, shortly after I moved here.

Q. When you moved to Maryland, where did you moved? [9]

A. I moved to my current location at Mount Briar. 4709 Mount Briar Road in Keedysville, Maryland.

Q. And I am going to admit my kind of ignorance of western Maryland. Can you tell me where Keedysville is?

A. Sure. That's in south Washington County.

Q. And what Congressional district is that?

A. The 6th.

Q. And in 2007, who was your Congressional representative?

A. It was Roscoe Bartlett.

Q. And you said it was Roscoe Bartlett. Did your Congressional representative change?

A. In 2007?

Q. No. Just at all in time.

A. I'm sorry. Yes.

Q. And when did that change?

A. That changed after the 2012 elections.

Q. And who is your Congressional representative now? [10]

A. John Delaney.

Q. When you first registered to vote, how often did you vote?

A. Every election. Every possible election.

Q. General elections?

A. And primary.

Q. And primary.

And did you ever have the opportunity to vote in special elections?

A. I voted in every election possible, every election available.

Q. Okay. And has that—I asked you—originally, my question was about when you first registered to vote.

A. Uh-huh.

Q. Has that habit stayed the same to the present day?

A. Yes, ma'am.

MR. MEDLOCK: Objection, vague. Sorry. Go ahead.

Q. So from 2007 to 2016, have you ever missed an opportunity to vote? [11]

A. No, ma'am.

Q. Are you registered as a member of a political party?

A. Yes, ma'am.

Q. Which one?

A. The Republican Party.

Q. And when did you first register with the Republican Party?

A. In June of 1999.

Q. Was that when you first registered?

A. When I first registered to vote, yes.

Q. And have you ever registered with another party?

A. No.

Q. Have you ever undertaken any activity on behalf of another party?

MR. MEDLOCK: Objection, vague.

Q. Have you ever affiliated with another party in any other way?

A. No, ma'am.

Q. Have you ever voted for a Democrat?

A. Yes. [12]

Q. When?

A. Oddly enough, an absentee ballot when I was in the military, I voted for a county coroner. He was listed as a Democrat. He was the only one voting—running in that category and I voted for him. For some reason I checked the box, so he was my first Democrat I voted for.

And the second I just voted for was in the last election, for Judge Viki Pauler of Washington County. And she is a registered Democrat, although it was an unaffiliated election.

Q. Okay. And the county coroner that you spoke about, what jurisdiction were they running for county coroner in?

A. They were in Wayne County, New York.

Q. And did you vote for Roscoe Bartlett in the 2010 primary?

A. Yes.

Q. Do you consider yourself to be politically active?

MR. MEDLOCK: Objection. Vague.

A. Yes. [13]

MR. MEDLOCK: Go ahead. You can answer.

A. Yes, ma'am.

Q. And why?

A. Well, politically active now. I never used to be. But politically active because I feel that it's my best chance to effect change and make a difference and help choose the representatives in office that I would like to see win those offices.

Q. So you said that you never used to be a politically active.

When did you first become politically active?

MR. MEDLOCK: Objection, vague.

Q. You can answer.

A. It was after the re-districting is when I first really started. Around—so I never helped with any candidates for office, I never tried to volunteer for anyone, I didn't know how to do that. I was never inclined to do that. I didn't have that in my nature to do so.

And in—after the—or right before—or that—I'm sorry—in that year, 2012, when [14] it—the referendum came up with for the Congressional district, I actually signed—I heard about the petition, I signed the petition to not effect the change of the Congressional district.

And then after the election in which the Congressional district changed, I started to become politically active by—meaning I went out and I—I went and I contacted my State delegate and then I met Don Bongino running for 6th Congressional District and I joined his campaign to try to effect change.

And so from then on, I became politically active, as I would call it.

Q. You said that you contacted your State delegate.

Who was your—which State delegate?

A. Delegate Neil Parrott, Washington County.

Q. And I know you said what timeframe. But do you specifically remember what month you contacted him in?

A. I—actually, I don't know, ma'am. [15] Sorry.

Q. But did I understand you correctly to say that it was after the election of 2012?

A. No. It was before then. He was working on the Maryland Petitions organization and I actually

contacted him and I wanted to sign the petition for the gerrymandering, or the changing of the district.

So I signed his petition. That was when I first reached—as far as I know, reached out to him.

Q. You said the organization, Maryland Petitions. Do you mean—is that the name of the organization or is it just an organization about petitions?

A. I believe it's Maryland Petitions.

Q. Okay. And other than contacting Delegate Parrott at that time in connection with the petition drive, did you do anything else to help in the petition effort?

A. No, ma'am.

Q. And I think you also said—let me know [16] if I don't get this right—that you then met Candidate Dan Bongino and joined his campaign; is that right?

A. Yes.

Q. And how did you join his campaign?

A. Well, I met Dan Bongino at a fundraiser for Delegate Parrott and I talked with Dan and his campaign manager, Sharon Strine, and they said they were looking for volunteers.

And I said, and I quote—I'll never forget this—I don't know what I could do, but if I could help in some small way, I would be happy to help, end quote.

And I joined their campaign. The—Sharon talked with me a couple of times and asked if I would be their Washington County coordinator. I didn't really have an idea what that was, but I told them I'd help any way they needed me to.

And I accepted the position and I became their Washington County coordinator for the—their Congressional campaign.

Q. Do you remember when the fundraiser for [17] Delegate Parrott was?

A. It was his pie and ice cream social at then Antietam Battlefield. And the exact date escapes me. But it was sometime September—I believe it was August or September of that year - I'm sorry—2013.

Q. That reminds me. When you said that you joined Dan Bongino's campaign, do you mean his 2014 campaign for Congressional District 6?

A. Yes, ma'am.

Q. Okay. He also ran for Senate, so I just wanted to make it clear.

What were the duties of the Washington County coordinator?

A. My job was to help coordinate or help recruit volunteers, coordinate activities with the volunteers. So organizing sign waving, knocking on doors, introducing ourselves to voters, different events that we'd have throughout the county, parades, things of that nature.

So—and interacting with other officeholders in Washington County, attending [18] meetings or things of that nature.

Q. What kind of meetings?

A. Well, let's say, for example, the Hagerstown Tea Party, you know, had a meeting. I would go to their meeting on behalf of the campaign and help try to recruit, you know, volunteers for his campaign there. Or the Washington County Republican Club or, you know, different events.

If other Republican or conservative candidates in Washington County was having activities, I would go to those activities on behalf of his campaign as a way to get his name recognition out there and introduce myself and meet other candidates—volunteers. Sorry.

Q. And do you know how many volunteers there were in Washington County?

MR. MEDLOCK: Objection, vague.

Q. For the Dan Bongino campaign, how many volunteers?

A. Not off the top off my head. No, ma'am. We had quite a few.

Q. So could you estimate it for me? [19]

MR. MEDLOCK: Objection. Calls for speculation.

Q. You can answer.

A. I don't know the number, ma'am. Well over a dozen or so.

Q. More than or less than 100?

A. Less than 100.

Q. More than or less than 50?

MR. MEDLOCK: Calls for speculation.

Q. You can answer.

A. I would speculate less than 50.

Q. When you were knocking on doors for Dan Bongino, what was the typical reaction of a voter?

MR. MEDLOCK: Objection, vague.

Q. You can answer.

A. So I would go all over Washington County in different communities. Every community in Washington County, all over Hagerstown city and you name it.

And the reaction was varied. We would target Republican voters, particularly trying to get contacts so that they knew to vote for Dan, [20] trying to get the Republicans out.

And most of the time, it was optimistic, upbeat. People were very happy that we were there reaching out to them. in many cases, people had never had a Congressional candidate or their campaign knock on their doors.

A lot of people were—felt—I felt—I really like knocking on doors because I got to connect with a lot of people who felt just like me. A lot of people were demoralized and really downtrodden about the results of the previous election and the campaign—the Congressional district change.

So folks in, even in Washington County felt that they were, they felt discouraged because—I mean, speaking for myself and relating it to them, we seemed to agree that we just couldn't believe that the district could change in such a—in that manner.

I mean, it's been the, you know, same for decades and decades and then all of a sudden, it changed. And a lot of people were angry when I [21] talked to them on their doorsteps or when I knocked on their doors or called them on the phone.

That was a common, you know, answer they had. They were angry about it and lot of them wanted to do something about it.

Q. What did they want to do about it?

MR. MEDLOCK: Objection, calls for speculation.

A. Some of the people that I talked to, they wanted to—they want to figure out a way to get the Congressional district back, to change it back. But they

were helpless, they didn't know what they could do.

And, you know, I tried to encourage people to vote. A lot of people said that their vote didn't matter, it didn't count. They were—you know, they voted Republican their whole lives, but now it didn't matter because of the change.

So a lot of people didn't know what to do. But they wanted to do something but they didn't really know what they could do. The only thing we encouraged them to do was to get out and vote. [22]

Q. Have you ever attended an event in Maryland—just talking about your time living in Maryland—that was held by your Congressional representative?

A. No.

Q. Is Dan Bongino's campaign the only political campaign for which you've served and volunteered?

A. No, ma'am.

Q. What other campaigns have you volunteered for?

A. Well, more along the same lines, I was Terry Baker's campaign manager in the primary. In the last election, he ran for 6th Congressional District primary. I was his campaign manager.

And then previously, also while assisting Dan Bongino's campaign, in the 2014 election cycle, I helped Neil Parrott's campaign as a volunteer. I put up signs, I would knock on doors for him.

And I did the same for Delegate Brent Wilson in the City of Hagerstown. I do sign waving for them. A lot of times, we'd do dual sign [23] waving. You know, we'd have signs for Bongino and for, you know, Brent Wilson when we were in his district,

or Dan Bongino and Delegate Neil Parrott when we were in his district.

Additionally, I would help some of the county commissioners put up signs or sign wave or just volunteering in small ways like that.

Q. Which county commissioners?

A. Terry Baker, Jeff Klein, that was it. Just them two.

Q. So I heard you mention Terry Baker, a Congressional candidate and a county commissioner candidate, Neil Parrott, Delegate Wilson, and Jeff Klein.

Were there any other campaigns?

A. Yes. I also helped David Craig's campaign for governor. My wife and I put up—we went some of his events and we also put up a lot of yard signs for him around Washington County. And we sign waved for him.

And the lastly, not as a volunteer for the campaign, but I did provide some assistance to Amie [24] Hoeber in her campaign in the last election cycle. But I was a member—I'm currently I'm member of the Washington County Republican Central Committee and a member of the Washington County Republican Club.

So I was helping her campaign really as -through my duties as those two organizations, not really working on under the campaign, per se.

Q. Okay. So just going back to Terry Baker and the 6th Congressional District primary, you said you served as the campaign manager; is that right?

A. Yes, ma'am.

Q. What were your duties as campaign manager?

A. As campaign manager, I helped find volunteers, organize fundraisers and help him with policy and public affairs, media presentations, and answer questionnaires, and direct all aspects of the campaign.

Q. Do you know how many volunteers served on the campaign?

MR. MEDLOCK: Calls for speculation. [25]

A. I don't have an exact number, no.

Q. Can you give me an estimate, please?

MR. MEDLOCK: Same objection.

A. I would say we probably had about 50.

Q. And you said you served with him through the primary?

A. Yes, ma'am.

Q. And—but Amie Hoeber was the eventual candidate?

A. Yes, ma'am.

Q. Do you know what share of the vote Terry Baker received?

MR. MEDLOCK: Objection. Vague as to the election.

Q. In the Congressional District 6 primary?

A. I'm ashamed to admit I do not recall that number at this moment. I know he came in second. So it was a six-person race. Amie Hoeber won and Terry Baker came in second place.

Q. When you spoke to voters about Terry Baker, what was the reaction?

A. A lot of the people that I talked to were [26] encouraged that he was running for office. A lot of people felt that Terry Baker was the most conservative candidate there and a lot of people were looking for a conservative candidate.

He was a people person. He's—we—our campaign slogan, he was a compassionate conservative. And you know, very fiscally, very socially conservative and a lot of people liked that.

They liked his message on lower government and, you know, accountability without compromising public services.

But at the same time, people were still disgruntled, I should say, about the state of the Congressional district. They were very discouraged. They hoped that he could effect some sort of change and win the district seat back.

But there was a lot of people who still continued to say that they didn't think that their vote mattered or their vote counted. And we had a hard time trying to convince them to come out and vote. [27]

Q. What do you mean when you say conservative candidate?

A. Well, I would say that even within the Republican Party, there are various degrees of conservative—conservativeness. And along the spectrum, Terry was, you know, a little bit more to than right than center.

So in my opinion, you know, he was one of most conservative candidates there in the Republican primary.

Q. What, in your mind, would make Terry more conservative than the other candidates?

A. Terry had a proven track record of being fiscally conservative. And with his track record and his policies on fiscal conservatism and social issues, particularly, his stance on abortion, he—there was another candidate in the district Congressional race that wasn't against abortion.

And I, you know, thought that that candidate wasn't as conservative as Terry, who clearly said abortion is wrong, abortion is murder, and he wouldn't, as a representative in the U.S. [28] Congress, vote to do any thing that advanced the abortion agenda.

So that particular issue, along with some others, was why I would say that he was more conservative than the others. I always go with the most conservative candidate in any election, regardless of which candidate—or office they're running for. And that's why I chose Terry Baker.

Q. What does fiscally conservative mean to you?

A. Fiscally conservative means, you know, keeping taxes low, minimizing the cost of government, and maintaining essential services.

Terry Baker, with his track record as a three-term county commissioner of Washington County had enjoyed more than 16 years without a property taxes increase. And they weathered the financial storm of the Great Recession without affecting any essential services and without cutting employees.

So he was very conservative. He kept the debt ratio down and maximized, you know, the—kept the borrowing down and tried to keep the tax [29] base—tried to raise revenue through increasing the tax base, but not increasing the taxes on a constituents. So that's what I considered to be fiscally conservative.

Q. When you were speaking about Terry Baker's position on abortion, you mentioned other issues. What were those issues?

A. Well, I'd say that one of the things was on gun rights. The Second Amendment issues was a big thing. Terry Baker was very much pro Second

Amendment and was unashamed about it. You know, he went to a lot of gun clubs and sporting clubs.

I mean, we're from Western Maryland, Washington County and a lot of conservatives and Republicans there really like the right to, you know—hunting and use of firearms without burdensome restrictions. And Terry, you know, fit well into that category.

And additionally, I felt some of the other issues were, you know, foreign policy. I felt that Terry had a really good grasp on how the United States should handle foreign issues, like the [30] Iranian, you know, nuclear deal.

And I thought that Terry and everyone—o n that issue and a lot of the others always took the most conservative approach, which I felt was what was best for, you know, myself and for everyone else.

Q. On foreign policy issues, what do you identify as the most conservative approach?

A. Well, one of the first things is I think that we have to do what's right for Americans. And I think that personally I—I identify that - like for example, like with Iran, you know, we shouldn't have given them, you know, billions of dollars and lifted their restrictions. You know, it should have been a more conservative approach.

You know, Iran being a—one of the leading state sponsors of terror and, you know, targeting Americans and some of their organizations and entities, you know, that they operate out of, you know, I just don't agree with, you know, what they did. And especially their—their leadership. And so that's one issue.

Other issues were foreign policy, how we engage our military in use around the world. I was a very appreciative of Terry's stance on the military. You know, he wanted to increase support and funding for the military and rebuild our military.

And I was, you know, in the last election cycle and even right now, you know, we had the lowest number of ships in the Navy's ever seen. I've been in the Navy myself, we have the lowest number of Navy ships since before World War II, the lowest number of soldiers in the army since, you know, the end of World War I, I think it is, somewhere in there.

I mean, we're at the lowest levels and yet we're trying to maintain, you know, several theaters of operation around the world. And try to be relevant in the world and be the most powerful country in the nation.

And, you know, we're facing increasing threats from China. And, you know, we have seen a lot Russian aggression. [32]

And, you know, I think that, you know, Terry Baker's approach and some of his ways that he was going to deal with, you know, some of those issues I thought was the most conservative approach to that.

Q. Going back to talk about the—oh actually, one last thing.

As campaign manager, was that a completely volunteer position?

A. Yes.

Q. Okay. Going back to Amie Hoeber's campaign, that was Congressional District 6 in the general election; is that right?

A. Yes.

Q. So what kind of support did you lend to that—to her?

A. So we helped with sign placement in and around Washington County. And we also, as a member of the Republican Central Committee and a member of the club, I helped rally the Republicans and conservatives in Washington County to come out and help her. [33]

To put up signs, to hand out palm cards, to knock on doors for her campaign, to make sure that the polling locations and the—on election night were covered that had Amie Hoeber signs. And just general support like that.

Q. And do you know how many people volunteered with you in those efforts?

MR. MEDLOCK: Calls for speculation, vague.

A. I'd say fewer than 50.

Q. Have you ever volunteered for a national campaign other than the Congressional District 6 races?

A. No, ma'am.

Q. Have you ever contacted—or did you ever contact Roscoe Bartlett for a constituent services issue?

A. No, ma'am.

Q. Did you ever contact Roscoe Bartlett's office to help you with any matter?

A. No, ma'am.

(A discussion was held off the record.) [34]

(E-mail was marked Exhibit 50 for identification and was attached to the transcript.)

Q. Have you seen this document before?

A. No, I have not.

Q. Is that From line up at the top there, is that your E-mail address?

A. Yes, ma'am.

Q. And who is Donna DeWolf?

A. That is my stepmother.

MR. MEDLOCK: Just for reference, we're talking about Exhibit 50.

Q. We're talking about Exhibit 50. Yes. I'm sorry.

And do you see here at the sort of end of the top of the first line there, it says, R slash J?

A. Yes.

Q. Would you sign your E-mails like that?

A. Yes.

Q. Do you have any reason to believe that this E-mail was not written by you?

A. Nope. No, ma'am. [35]

Q. I don't have any stunning questions and this is not a memory test, but did you have a chance to read Exhibit 50?

A. Yes, ma'am.

Q. And do you see that it looks like a response to your inquiry about a Capitol tour?

A. Yes.

(A discussion was held off of the record.)

Q. Do you remember if you took a Capitol tour in 2008?

A. Yes, I believe we did. My stepmother and my father came to visit. And I—I remember doing Capitol tours, I don't remember when it was.

And I would like to say that I thought that I had reached out to one of the senators, but I didn't remember this at all.

Q. No. That's totally fine. I don't think I would remember something like that either. It's not a memory test.

A. I know I have reached out to Senator Cardin's office in the last years to try to get tickets to the Capitol Building. And I've always [36] thought I went through the senators. So—

Q. Okay. And have you ever contacted Congressman Delaney?

A. Yes.

Q. And on what matter?

A. Actually, I don't remember the matter. But there was a instance when I had heard about a bill that was trying to be passed.

And I remember them—it was on the radio, please contact your Congressman and encourage them to vote no on the issue. And I remember calling his office, telling him who I was, where I lived, and saying I encourage him to vote no on that bill.

And that was just a few years ago. But I don't remember what the issue was.

Q. Okay. And did you request a response from the Congressman?

A. No, ma'am.

Q. Did you get any response from him?

A. No, ma'am. I spoke with a lady on the phone, but that was it. [37]

Q. All right. And have you ever contacted Congressman Delaney's office for a constituent services issue?

A. No, ma'am.

(E-mail was marked Exhibit 51 for identification and was attached to the transcript.)

Q. You can take a minute to look at this. Just let me know when you're done.

MR. MEDLOCK: Just so we're clear, there's no To line in the E-mail. I'm not sure—

MS. RICE: That's right.

MR. MEDLOCK: It's just a weird set-up.

MS. RICE: Yeah. I don't know why.

BY MS. RICE:

Q. But I was just—what I was going to ask Mr. DeWolf is if he recognizes this document?

A. Yes.

Q. And what is it?

A. Just recently, I had reached out to—I did—well, I guess it is a constituent service.

I reached out to Congressman Delaney and Ben Cardin's offices, the senator, to try to get [38] tickets to the inauguration.

Q. Were you successful in getting tickets?

A. No, ma'am. Not from either Congressman Delaney. And I received a similar E-mail back from Senator Cardin.

Q. Okay. And did you—I think in the third paragraph it says, following the drawing, we will contact you to inform you if you were selected. Do you see that there?

A. Yes, ma'am.

Q. And were you contacted at all after you received this E-mail?

A. I believe that they sent me an E-mail saying that I didn't—I wasn't selected.

Q. Okay. That's fine.

When was the first time that you became interested in redistricting?

A. I was—it was before—right before the 2012 election. I was—Delegate Neil Parrott had sent out an E-mail. He had talked about upcoming events or something of that nature. And he had—on there, it had talked about the petition—sign [39] the petition for referendum on the redistricting.

So I went on and I signed that. But it was that time when he had sent it. So I learned about it through Delegate Parrott before the 2012 election.

Q. Did you ever know about the legislative redistricting process in Maryland?

A. No, ma'am.

Q. So we talked about your role in the petition drive.

Did you take any other action related to the 2010-2011 Congressional redistricting?

A. No, ma'am. I just signed the petition.

MR. MEDLOCK: Other than filing this case, of course. Is that what your question is?

MS. RICE: Other than filing this case.

Q. I know you signed the petition.

Did you vote against the referendum?

A. Yes, ma'am.

Q. And other than filing this case and other than signing the petition and voting against the referendum, have you taken any actions related to [40] Congressional redistricting after the passage of the last plan?

A. No, ma'am, not that I'm aware of. I mean, just this lawsuit and supporting my candidates for office.

Q. How did you first hear about this lawsuit?

A. I was contacted by Maria Pycha. I worked with Maria on the Bongino campaign. She was the finance director, county coordinator.

And she approached me and—or sent me an E-mail about it, I think, or called me. And asked—you know, told me that there was a lawsuit and that they were looking for people like myself who was, you know, very conservative, lived in the 6th District and that would be interested in signing on as a plaintiff.

So that was the very first time I had heard about this lawsuit was from Maria Pycha.

Q. And do you know that Ms. Pycha is no longer a plaintiff?

A. Yes.

Q. Do you know why she chose to voluntarily [41] withdraw?

MR. MEDLOCK: I'll caution you not to reveal anything that you heard about that from your attorneys. That's privileged.

But if it's something you heard from Maria or a source other than your attorneys, you can testify about that.

A. No, ma'am.

Q. And why did you decide to join the lawsuit?

A. Well, like most of the—or all of the other reasons that I joined any of the campaigns for office for any of the candidates. I wanted to effect change and make a difference. I wanted the most conservative outcome possible. And I have a hard time saying no when asked to help.

So if somebody asks me to help in a matter regarding, you know, supporting conservative candidates or conservative policies or positions, I want to

jump in and I want to help. So that was the crux of the reason.

And I—somebody asked if I would be [42] willing to help support this cause. And I wholeheartedly supported it and I wanted to help.

Q. How do you think this lawsuit will help conservative causes?

MR. MEDLOCK: Calls for speculation.

Q. What's your belief?

A. Well, my belief is that if—my belief that this lawsuit, I'm hoping that it would affect change in the way that the Congressional districts are drawn so as not to use political influence of people to draw the Congressional lines.

And by that I mean, I had never really been involved in politics before. And I never really—I mean, I've always paid attention, always watched the news, I was engaged. And when I say I engaged, I mean that's the really extent. I discussed it, you know, with my friends and family.

But then, you know, seeing what happened talking about the change in the Congressional district, I saw that it was going to happen, and I saw it happen and I was kind of demoralized.

I was very devastated. I didn't realize [43] that it could have really happened. I didn't really understand the effects that it had.

And so for me, I lived in a, you know, very rural conservative area. And I've always been conservative. I've always been—my—most of my family is conservative. And not just Republican. The most, you know, conservative candidates.

And I had this understanding that I was—you know, had conservative representation in the 6th

Congressional District in the candidates that I voted for.

And then this change happened in the district and, you know, I kind of went through a grieving process with it. And that grieving process was literally just like, you know, five stages of grief.

At first, I was shocked and I didn't believe that it was really happening. I didn't understand how it was—how that could happen, you know, so—so much. I mean, I understand redistricting and I understood the, you know, cursory, you know, what they explain in schools and [44] things.

But what—when I saw that it changed so much and that the district switched from, you know, Republican to Democrat, you know, by—by so much, you know, it really angered me. And I didn't, you know—so I went, you know, from shock and disbelief to anger.

And, you know, I was really demoralized for a long period of time about this. And I—you know, a lot—I complained to my family and friends. And a lot of people said, you know, what difference does it make. How are you going to -you can't do anything about it. You know, there's—the powers that be made it happen. There's, you know, it was a game changer they changed the game. There's nothing you can do.

And I stewed on that for months and months after the election of 2012. And it was many months, probably mid-Summer is when I finally started realizing that maybe there was something that I could do to help usher about a change from what I had gone through. [45]

So when I finally accepted that that's what it is and, you know, I have to deal with it, that's when

I, you know, started reaching out. And I went to one of Delegate Parrott's fundraisers and met Dan Bongino.

And that's when I started thinking that maybe there's—you know, we've got to get people out, we've got to encourage them to vote. And along the way, I met so many people like me who were so demoralized and so, you know, discouraged about the redistricting and about how, you know, everything was the way it was for so long and then all of a sudden, the game was changed and we -it's a whole new ball game now.

And you know, we have to work, we have to get out and we have to do something. We have to work to try to effect a change and, you know, for the candidates that we want. So that's—I hope that answers that question.

Q. You mentioned that you wanted—one of the things you hoped to get out of the lawsuit was a change in the process of redistricting, if that's [46] what you said.

Is that what you said?

A. Yes.

MR. MEDLOCK: Mischaracterizes his testimony. Go ahead.

Q. What kind of change would you like to see in that process?

A. Well, I think that I'd like to see it change back to the—the district that's similar to the make-up and composition that it was.

You know, the five western counties, you know, Garrett, Allegheny, Washington, Frederick, and Carroll are all, you know, fairly rural similar like

demographics and, you know, geographical, you know, composition.

And, you know, adding in Montgomery County right outside of, you know, Washington, DC and some of the very rich areas, and I mean, everything is drastically different.

And one of the—I mean, I would hope to see the change that, you know, others that I've talked to and Dan's Congressional campaign, [47] Terry's, Amie Hoeber's, you know, there's a similar thread, you know, among all three of them.

And even in the county commissioners and the state delegates, everybody has this sort of belief that I've talked to—a lot of people do -that well, the game's been changed. You know, things are not equal now. They're not—it's completely unequal, there's not much we can do about it.

And, you know, we looked—on Dan Bongino's campaign, you know, we really worked hard—we worked very, very hard. And, you know, we tried so hard to encourage people to come out and vote even when they said that their vote didn't matter, their vote didn't counted.

And it's not the normal. It's—they were saying that because of the redistricting. That's what they were saying. And I believe that.

And so it was like we had to work extra hard to convince people to come out and vote instead of just, you know, they were lazy and didn't want go to the voting box or the ballot box. [48]

So the change that I wanted to see is to go back to, you know, similar ways that it was and for everyone to have that same sort of feeling that they used to have that, you know, the expectation that their vote mattered, their vote counted.

A lot of people in Washington County and even in the western counties that I've encountered don't think that it matters or that it counts. And so the effect of the change for the Congressional district would be just that; that people get their voice back or their feeling that their vote matters and counts.

And then along the same, you know, geographical boundaries that I talked about that people in like communities. You know, it's drastically different.

Q. How often do you go to Baltimore County?

A. Very rarely now.

Q. How has the 2011 redistricting harmed you?

MR. MEDLOCK: Objection, vague.

Q. You can answer.

A. Well, like I was just saying, I would say [49] that harm is a—you know, to measure the harm that it had on it, I tell you I really experienced the stages of grief.

You know, the disenfranchisement grief. You know, the shock, the disbelief, the—the anger, the depression, the acceptance. I went through each one of those stages when I learned that this has happened.

I really didn't understand—I mean, I knew that—that it was necessary every 10 years per the Constitution, you know, population changes, the Census. And then we—we moved the Congressional districts according to population.

I understood that at the time. And I understood that it was necessary for them to be redrawn, you know, slightly here and there.

And—but I had no idea and I was never prepared that it would such a—such a huge change. And

that huge change corresponded to a huge change in representation and it was a game changer.

And that game changer was devastating [50] because when I look back, you know, I'll start back—give you a little back story of that.

In 2008, I was devastated with, you know—very devastated with the Presidential election. President Barack Obama had the White House, very strong leads in the Senate and the House of Representatives. And it was a huge, huge change and I was really demoralized by that.

But then in 2010, there was a referendum on President Obama's policies. We saw huge changes in the House of Representatives. And then, you know, even more so in 2012, there was uptick in people who were coming out and there was—people were coming out, the conservatives, the Republicans, and they were starting to pay attention, like myself.

And I thought, well, surely, you know, even, you know, 2012, when we were talking about the conservative district changes, you know, I realized that, you know, it was being talked about and we had the referendum.

But I said to myself, well, surely, you [51] know, other conservatives out there will see what's happening on the national stage, the beginning of the Tea Party movement, you know, and the conservatives were, you know, really coming out in full force. And I said, well we're making progress. It's a step in the right direction.

And, you know, we had a chance of continuing this movement. And I was—I was sort of calm about it. Roscoe Bartlett was still my Congressman. I still had a Republican in the House of Representatives.

And he was, you know, still voting for conservative principles that I wanted him to vote for and that others, you know, like me in our district.

And then when the 2012 election happened, and on the referendum that the question about the district, it changed it. And then overnight, literally overnight, we went from—I wasn't in the same district that I lived in—I mean, physically I was, but it wasn't the same representation. [52]

It wasn't the same thing for me. It was, oh, my goodness, now I'm in a district that is, you know—went from strong Republican and conservative to strong, you know, Democrat. And my representative was now a Democrat.

And I wasn't sad that it was—that—it wasn't about the person. It was about the principles and the philosophies that went along with who that person was—John Delaney was representing in Congress.

And I felt like I no longer had a representative in Congress. So my expectations were completely changed from when, you know, from everything up to that point.

That election changed my life dramatically. It changed me from, you know, just being—just paying attention to what was going on and complaining about it and yelling at the television, like I tell everybody, to uh-oh, we need—it's not enough. You have to do something about it.

Because I was just—the—I felt that [53] the State of Maryland, whomever made those decisions—I had no idea who—how it happened or, you know, how it came about. But the district was—all the districts were re-drawn. And I—it was—it was an

overwhelming shock to me that that could happen like in the magnitude that it did.

And so how did it harm me? It harmed me in the fact that I was shocked, I was horrified, I felt overwhelmed that this happened. And it really—it led me into a state of anger and then, you know, despair. Kind of depression, because I just—I felt like, well what—what could I do about it.

I had this hope that we were going in the right direction in our country and then it was a total game changer, unforeseen. It's like they changed the rules of the entire game that we were playing.

And here I thought if we could just encourage people to come out and vote, that in our communities—because historically, you know, [54] Washington Country and Western Maryland, 6th District was historically conservative. And now all of a sudden it's not, overnight.

And so the harm was the devastation that came to that. That the level of that feeling. And it lingered for months.

And like I said, after the election—that was in November—it wasn't until mid-Summer, probably July or August, that I really started coming about. And people asking me all the time, well, why are you complaining about it, what can you do you about it.

It was a feeling of hopelessness and despair of them saying—people saying over and over again, you just have to deal it, there's nothing you can do about it, what can you do.

And people kept asking me that and asking me that. And it was—it was awful. It's hard to describe. Those are the only adjectives I can think of is, you know, despair and hopelessness.

And then finally I said, you know, I got to see what I can do. What can I do about it. I [55] didn't know. I had no idea. No idea what it meant to be politically involved or to help with campaigns.

I had never done that before, I never had any inclination to do that before. I didn't know who those people were that I seen on television knocking on doors or answering phones or things of that—or you know, calling people.

And so that's when I went to one of Neil Parrott's fundraisers. And that's when I met Dan Bongino. And that's when I said—and I quote -if there's any small way I can help your campaign, I'd would be happy to, end quote.

I mean, I remember that because I didn't know what I could do. Because everybody kept saying, well, what can you do about it, you can't do anything about it.

And so I guess that's the answer to the question, what harm did it cause me. It caused me to be in this state for—for so long.

MS. RICE: Okay. Those are all the questions I have. [56]

MR. MEDLOCK: Okay. I have maybe two.

EXAMINATION BY COUNSEL FOR THE PLAINTIFFS BY MR. MEDLOCK:

Q. Sir, you've mentioned the 2012 redistricting referendum.

Do you remember that testimony?

A. I'm sorry, could you repeat that?

Q. Do you remember your testimony that there was a 2102 redistricting referendum in Maryland?

A. Yes.

Q. Can you describe what the referendum question looked like on the ballot?

A. I don't remember the exact vernacular of it. But I will tell you that when Delegate Parrott had said that there will be one question on the referendum, I thought to myself, oh, great, well at least we'll get to vote on it and people will vote no because they don't want to redistrict and bring in this large swath of, you know, other populations from other areas.

But then when I was at the—the first time I believe I saw it was at the voting box. And [57] the only thing I remember it saying was, do you support—it was something like, do you support the Constitution of the United States.

And I thought, my God, is this the question that I voted on the referendum, you know, to oppose? Is this the question that I had—you know, we had been talked about that was going to change the Congressional district lines. What does this mean, you know.

In accordance with the Constitution, if I vote no, then is that saying that I don't support the Constitution? It was a—I was in shock. I stood there and I literally read the question again and again several times.

And I convinced myself this is the question that, you know, is the referendum on the redistricting. And I voted no on it.

But the wording of the question was a huge slap in the face to me. I just couldn't believe that it was written in that way. I felt incredibly ignorant reading it because, like I said, I had gone in thinking that this is, okay, it's going to [58] be an easy thing.

Do you vote to—you know, are you going vote against the redistricting. But the way it was worded, I felt, you know, like, my God, it's going to be awful to vote against this, because I wouldn't support the Constitution.

Deposition of Plaintiff Kathleen O'Connor

Q. Would you please state your name for the record?

A. Kathleen O'Connor.

MS. KATZ: And I'm going to show you something. We are sequentially numbering documents. So this is going to be document 52—Exhibit 52. [6]

(Whereupon, O'Connor Deposition Exhibit 52 was marked for identification and attached to the transcript.)

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It's a Notice of Deposition.

Q. Okay. This is the Notice of Deposition that you were served with in this case?

A. Yes.

Q. Have you ever been deposed before?

A. No.

Q. Okay. So I am just going to over a few housekeeping rules. Because the court reporter is trying to take down everything we say, I won't talk over you. I will wait until you finish answering a question to ask a new one.

I just ask that you wait until I finish answering a question—asking a question to begin your answer. Also, please provide verbal responses—

A. Yes. [7]

Q. —for the record. Great. If you do not understand a question I ask, please let me know and I will try to rephrase it so that you do understand it. If you don't ask me to rephrase a question, I will assume that you understood it.

A. Okay.

Q. And we are not going to be here for very long, I would certainly hope. But if you need a break at any time, please let me know, and we will find a good stopping point to take a break.

A. Okay. Thank you.

Q. Sure. Just for—are you—before we get started, I was going to ask are you taking any medication today that may affect your ability to testify or recall events?

A. No.

Q. Thank you. Where do you currently live?

A. My current address is 9321 Watkins Road, Gaithersburg, Maryland. The zip is 20882.

Q. And how long have you lived there?

A. Since August of 2003. [8]

Q. Okay. Prior to that, prior to August of 2003, where did you live?

A. I lived in Germantown, 11411 Seneca Forest Circle in Germantown, Maryland.

Q. And how long did you live there?

A. Five years.

Q. Okay. So like 1998 to 2003?

A. Yes.

Q. Do you happen to know, is that in the 6th congressional district?

A. Germantown, I believe so.

Q. And where did you live prior to that address in Germantown?

A. I lived in Damascus prior to that.

Q. For how long?

A. Probably about two years.

Q. So about 1996 to 1998?

A. Yes.

Q. And was that also in the 6th congressional district?

A. I do not know. I was probably not even registered to vote at that time. So I don't know. [9]

Q. Do you recall when you first registered to vote?

A. I was trying—I thought it was 1994, but I don't recall exactly.

Q. Okay. But around 1994 you think?

A. I think so. I'm just not sure what my congressional district was when I was living in Damascus. Therefore, it makes me wonder if I was actually registered to vote at the time. I apologize.

Q. No. Please don't apologize. Do you recall if you voted in the 1996 presidential election?

A. I do not recall.

Q. Okay. So is it possible—

A. Which election was that?

Q. So in 199—this is going to be history. Clinton, Dole. Clinton was running for re-election.

A. I do not believe I voted in that election.

Q. Is it possible you were not registered at that time? [10]

A. It's possible.

Q. You may have registered after 1996?

A. Shortly thereafter. Yes, it's possible.

Q. Do you remember the first election in which you voted?

A. I'm sorry. No, I just don't.

Q. No problem. What is the highest level of schooling that you attained?

A. Just paralegal school after high school.

Q. Where did you attend high school?

A. Paint Branch.

MS. KATZ: I grew up in Montgomery County. I went to Kennedy.

THE WITNESS: Oh, yeah.

Q. Not far. And where did you attend paralegal school?

A. It was Katharine Gibbs School in Rockville at the time.

Q. What kind of work do you do now?

A. Now I am a firearms manufacturer and dealer.

Q. What sort of firearms do you manufacture? [11]

A. Well, I have a manufacturing license. So we manufacture—it's—actually, we are not manufacturing. We are an assembler, technically. We don't make any components. We just assemble. But mostly AR-15s.

Q. And how long have you been doing that?

A. Almost three years.

Q. What did you do before that?

A. I was a stay-at-home mom and professional volunteer for my children.

Q. Did you ever work as a paralegal?

A. Yes, I did.

Q. Do you recall when that might have been?

A. That would have been—it was five years at Shulman Rogers in Montgomery County. Let me think when my daughter was born. I'm sorry. I didn't think about this ahead of time. She was born in '99. Probably '93 to '98.

Q. Is that the sign you see when you drive over the bridge Shulman Rogers?

A. I was not there at that building. Yeah. We were down in Rockville. [12]

Q. Other than the firearms manufacturing and dealing and working as a paralegal, have you had any other professional jobs?

A. Prior to that, I was a legal secretary while I was going to school. Oh, and I worked at Fullman Daney in Bethesda prior to going to Shulman Rogers as a—pretty much a legal secretary.

Q. Got you. Do you recall if, when you were living in Damascus from 1996 to 1998, if you voted in any elections during that time period?

A. I just—I don't recall, because I don't know where my precinct would have been. I'm trying to recall where I would have gone to vote, and I just don't recall.

Q. Okay. What about at the—in the Germantown address at Seneca Forest Circle, I believe you said?

A. Yes. Yes.

Q. So you moved there in 1998. Do you recall voting when you lived at that address?

A. Yes, I do.

Q. Okay. Did you vote in both primary and [13] general elections—

A. I would have, yes.

Q. —during that time? Do you think that while you were living at that address, you ever missed an opportunity to vote?

A. I don't believe so.

Q. And do you recall during that time period from 1998 to 2003 who your congressional representative was?

A. It was Roscoe Bartlett.

Q. Then from 2003, you said, to—I think is when you said you moved to the address where you live now in Gaithersburg?

A. Yes.

Q. Have you voted in every election in which you have been able during that time?

A. Yes.

Q. And does that include primary elections as well?

A. Yes.

Q. Okay. And do you know who your congressional representative was or is or has been [14] from 2003 to the present?

A. Yes. It was Roscoe Bartlett and then went to John Delaney.

Q. When you voted in the elections from 1998 to the present, do you always vote for your congressional representative?

A. As far as my party affiliation?

Q. No. I'm sorry. Do you—sometimes people go in, they vote for president, they vote for governor, but then they don't mark off other candidates on the ballot.

Do you recall if you always marked one of the candidates running for congressional representative when you voted?

A. Yes. I always voted for a congressional candidate, yes.

Q. Thank you. Are you registered as a member of a political party?

A. Yes.

Q. Which party?

A. Republican.

Q. And do you recall when you first [15] registered your party membership?

A. When I registered to vote. It would have been the same time.

Q. And have you always registered as a Republican?

A. Yes.

Q. Have you ever voted for a candidate who was not a Republican?

A. Yes.

Q. When was that?

A. I don't know the year, but I voted for a candidate who was running for Register of Wills in Montgomery County who was not a Republican.

Q. Do you know what party that person was?

A. Democrat.

Q. Do you happen to recall around what year that might have been?

A. It would have been while I was working at Shulman Rogers between, I guess, '93 and '98.

Q. Okay. Is that the only non-Republican you recall voting for?

A. That I recall, yes. [16]

Q. Did you ever vote for someone other than Roscoe Bartlett when he was on the ballot?

A. I don't believe so.

Q. So you believe you voted for him in all the primaries?

A. I believe I always voted for him when he was on the ballot.

Q. Okay. What are the qualities that you look for in a political candidate?

A. Honesty, integrity, someone who is going to listen to the voters and consider the people in their district and their concerns.

Q. If a candidate emulated those qualities, would it matter to you what party they were affiliated with?

A. No.

Q. Are you a member of any political organizations?

A. I am an elected member of the Republican Central Committee, if that counts.

Q. You said you are an elected member. Is that the Montgomery County Republican—[17]

A. —Central Committee, yes.

Q. What is your title or status?

A. I'm just a member right now. I was former communications chair. But I stepped down from that position probably six months ago.

Q. And how long were you the communications chair?

A. From October of 2013 until probably summer of 2016.

Q. Okay. And do you recall when you—I don't know what the right word is—but like joined that committee?

A. Yes. It was October of 2013.

MS. KATZ: Okay.

A. I was appointed for a vacancy. And then I ran for election and was elected in 2014.

Q. Got it. And what do you do for the committee now as an elected member?

A. Not very much right now, to be honest. I'm not very active and involved right now.

Q. And what did you—what were your major responsibilities as the communications chair? [18]

A. I handled media requests. Anyone who wanted to speak to the chairman or ask for opinions on something that was happening politically, they wanted to—I handled social media.

Q. Okay. And why did you—I know you said that you were appointed in October of 2013.

A. Uh-huh.

Q. Why did you decide to become involved with that organization?

A. Well, there was an opening in my district. And I felt like that would be a good place to be involved and active, because I had spent so many years not involved and not active.

Q. So would you say that before October of 2013, you were not active in any political organizations?

A. Before 2010, I was not involved at all. And then I just slowly started becoming involved after 2010.

Q. What changed in 2010 that got you slowly getting involved?

A. I felt like the direction of our state was [19] going in a direction that was concerning me. And I wanted to be more informed and involved in perhaps the direction. I'm a lifelong Maryland resident. So, you know, I care about my community.

Q. Was there something specific about the direction Maryland was moving that concerned you?

A. Away from my personal values, I felt.

Q. What are those?

A. Just conservative—typical conservative values.

Q. What are those? What do you consider to be typical conservative values that you share?

A. Well, I—I—I think smaller, more accountable government, fiscal responsibility. I'm concerned about

our debt. You know, there is a lot of social issues in Maryland that are—do not align with my values that, you know, just concern me.

Q. Were you involved in Dan Bongino's congressional campaign in 2014?

A. Yes.

Q. How were you involved? [20]

A. I'm trying to think of—I had a title. I can't think. It's probably like an honorary title. What was my title in his campaign? I honestly can't remember. I basically helped get events, fundraising events, get people to events. I handled social media. I did a lot of photography and parades and door-knocking. I wasn't the Montgomery County coordinator so much, but I did a lot of those activities, just normal campaign canvassing, community events and things like that.

Q. Were you—were you a paid staffer?

A. No.

Q. So this was all volunteer?

A. Yes.

Q. Okay. Had you volunteered on any campaign before Dan Bongino's?

A. Not before his. I did volunteer on his Senate campaign. Prior to that, I had no political experience at all.

Q. Okay. Why did you get involved with the Bongino campaign? [21]

I met Dan at a conference and he had just become a candidate. I just really connected with him. I liked his message. I liked his energy and his concerns.

And it wasn't until a few months later that I joined his campaign. The first time I saw him speak, I really—I really liked his candidate platform.

Q. I'm sorry. I wasn't specific. Was this his 2012 Senate—

A. This was the Senate the first time I met him, yes. I liked him as a candidate, as a person.

Q. And is that why you decided to volunteer again in 2014?

A. Yes. I felt like that campaign was worth time and effort.

MS. KATZ: I'm going to mark this. Would you take a look at this?

(Whereupon, O'Connor Deposition Exhibit 53 was marked for identification and attached to the transcript.)

A. Yes. [22]

Q. Do you recognize that document?

A. Yes.

Q. What is it?

A. That is one of my e-mails.

Q. Do you recall in what capacity you sent this e-mail?

A. What is the date? 2013. It's—I don't know if I had officially joined the campaign at this time. But I was part of a women's group. So I could have been out canvassing, you know, as part of that group. I'm not sure.

Q. Who is the recipient up there of the e-mail?

A. It looks like Brad Botman.

Q. Who is that?

A. I don't know if he was on the central committee. He was like the support person. I'm not sure if he officially was on the committee.

Q. In the first sentence—I'm sorry.

A. I'm sorry. I think it's just a friendly exchange. But—

Q. In the first sentence of the e-mail, you [23] reference Dan.

A. Yes.

Q. Is that Dan Bongino?

A. Yes.

Q. Okay. In the e-mail, you reference that you talked to about 25 people while canvassing, and that only two had any idea who their congressman was.

Do you recall those conversations?

A. I mean, I did a lot of canvassing over the years. And conversations like that where just people who had zero political involvement, I don't know if they ever voted, they just—not only did they not know who their congressman was at that time, they never knew. That was my take-away from that.

Q. Okay. Thank you. Other than as part of your work as a volunteer on Dan Bongino's campaign, have you ever attended an event held by your congressional representatives?

A. No, I have not.

Q. Do you recall ever contacting your [24] congressional representatives' constituent services?

A. I have not.

Q. Have you ever contacted your congressional representative about a particular issue?

A. I probably would send representative Bartlett thank-you messages after a big vote. I just don't

recall. I don't think I have ever contacted John Delaney's office about anything.

Q. Why haven't you contacted him?

A. John Delaney's office? I just feel like it's not worth the time and effort. His mind is made up on every issue, and my time would be wasted by contacting him.

Q. What leads you to believe that his mind is made up on every issue?

A. I feel like he is going to vote—whatever the Democrats are going to put forward, he is going to vote with them on that issue. There is no leeway. I can't imagine—I don't really know that he ever did not do that, in fact.

Q. Do you recall when you first became [25] interested in the subject of redistricting?

A. I do not.

Q. Do you recall when you first learned about the 2011 redistricting plan? I'm talking about the 2011 congressional redistricting plan.

A. Obviously, I knew about it. I was not involved or—I had no—you know, I was involved in other things. I did not have any—I didn't put any effort into supporting or really not supporting it.

I really had no knowledge of what was going to happen or what the plan was.

Q. Did you take any action regarding the 2011 congressional redistricting plan?

A. I don't believe so, no.

Q. You didn't testify before the governor's redistricting advisory committee?

A. No.

Q. Did you post any public comments as to the plan revealed to the public?

A. I don't believe so. I wasn't on social media or anything. I don't think I did, no. [26]

Q. Are you aware that the congressional redistricting plan was petitioned to referendum?

A. Yes.

Q. Do you recall if you helped gather signatures for that petition drive?

A. I did not help gather signatures. I may have signed it. I probably most likely did sign it. I don't recall. I'm sure if there was one, I did sign it.

Q. Do you recall voting on the referendum?

A. Yes.

Q. Do you recall how you voted?

A. I'm sure I voted against—you know, I wanted to stop the redistricting. So however it was worded.

Q. Got it. Aside from joining this lawsuit, have you taken any other action about redistricting after the 2011 cycle?

A. No.

Q. How did you first hear about this lawsuit?

A. I believe information about it was sent to our central committee. And some of us did live in [27] the district and probably met the criteria.

Q. Do you know who sent the information to the central committee?

A. I do not. I'm sorry. I would guess it was another member on the committee was circulating it to our group.

Q. Why did you decide to join the lawsuit?

A. Because I think it's important. I live in Montgomery County. I have no Republican representative at the state or local county level, anywhere.

After this redistricting, I was left with—my one, you know, sort of piece of comfort in the political realm was taken away, I think intentionally.

Q. Do you think you were harmed by the 2011 congressional redistricting plan?

A. It ensured that I will no longer have representation. And I do not believe it's even a competitive district at this point.

Q. When you say it ensured that you will no longer have representation, what does that mean? [28]

A. I had a representative that shared my values and my views before the redistricting. And after, I don't see any way for any Republican candidate to win that district again because of the influx and the change in the voter make-up of that district.

MS. KATZ: I'm going to take a short break.

(Thereupon, there was a recess taken at 1:24 p.m.)

(Thereupon, the proceedings were resumed at 1:30 p.m.)

BY MS. KATZ:

Q. You had testified that you didn't think a Republican could win in the 6th congressional district.

A. Uh-huh.

Q. Did you believe that at the time you were volunteering for Dan Bongino's campaign?

A. I believe deep down, yes, I did believe that a Republican could not win, although Dan was a fantastic candidate, and he already had name [29] recognition from the Senate campaign.

And he had become a consultant for MSNBC, I believe, CNN, Fox News. He had great national exposure. And people across the country knew who he was. I thought wow, if anyone can, Dan could do it.

But I think it actually proved the point that even the best Republican candidate with that kind of exposure, which will probably never happen again, cannot win in that district.

Q. Do you think it hurt his campaign that he didn't live in the 6th district?

A. No. Because I don't think Mr. Delaney lives there either.

Q. And can you tell me why specifically you don't think a Republican can win in that district?

A. Because the numbers of voters for each party are wildly—you know, there is just too much of a gap between the number of voters in that district, the different parties.

Q. Do you actually know the numbers of the voters in that district? [30]

A. I don't. But I have seen the maps, and I know Montgomery County pretty well as far as their political views. And that big chunk of Montgomery County that was placed in that district just overwhelms the population, the density. Being out in Western Maryland, there is just not the population and the density to overcome that.

March 21, 2017 *Washington Post* article

BATTLES CONTINUE IN ANNAPOLIS OVER THE USE OF BAIL AND REDISTRICTING - THE WASHINGTON POST

By Ovetta Wiggins

The Maryland Senate gave preliminary approval Tuesday to a bill that would allow bail for criminal defendants even if they cannot afford to pay, potentially undoing a recent decision by the state's highest court and setting the stage for a battle with the more liberal House of Delegates and members of the state's Legislative Black Caucus.

After a prolonged debate, the Senate voted to advance the measure despite objections from Attorney General Brian E. Frosh (D) and advocates who say the legislation will lead to more poor defendants remaining in jail because they can't afford to post bond.

The Maryland Court of Appeals issued a rule change last month that required judges to impose the "least onerous" conditions when setting bail for a defendant who is not considered a danger or a flight risk.

Also Tuesday, after a short but lively debate, the Senate delayed action on another bill that is certain to lead to a showdown with Gov. Larry Hogan (R) over redistricting changes.

Democratic legislative leaders have backed a bill that would try to set up a Mid-Atlantic regional compact with New York, New Jersey, Pennsylvania, Virginia and North Carolina on redrawing congressional districts.

On Monday, a House committee voted against Hogan's redistricting proposal, which would have created

a nonpartisan commission to determine the boundaries for the state's congressional and legislative districts.

Sen. Craig J. Zucker (Montgomery), the lead sponsor of the Democratic bill, said redistricting is a national problem that has not been addressed on a federal level. The bill attempts to address it on a regional one, he said, adding: "This presents an opportunity for Maryland to take the lead."

The bill is contingent on the other states enacting similar legislation and would become void if the compact is not created by 2032. It is an attempt to circumvent political opposition to the idea of lawmakers in a heavily Democratic state, like Maryland, giving up control over redistricting while lawmakers in neighboring, Republican-majority states are allowed to keep that power.

"Congressional redistricting is a national problem that deserves a national solution," Senate President Thomas V. Mike Miller Jr. (D-Calvert) said. "However, when the federal government fails to lead, it is our responsibility to take the charge."

U.S. House Minority Whip Steny H. Hoyer (D-Md.) said in an interview that he supports the concept of the bill being pushed by Democratic state lawmakers, calling it "a step in the right direction but not as far as it ought to go."

Hoyer favors a bill pending in Congress that would institute a bipartisan redistricting commission in every state. An identical bill did not advance in the previous session and has yet to get a hearing this year.

"Now let me make it clear, I am a serial gerrymanderer," Hoyer said. "As long as North Carolina, Pennsylvania, Ohio and Florida, Texas, other states that I could name, pursue partisan redistricting, there's no reason to expect that those of us who are in

Democratic states won't do so as well. But what we ought to have is a national mandate that redistricting is to be done in a fair, balanced way through nonpartisan commissions."

State Senate Minority Leader J.B. Jennings (R-Baltimore County) called Zucker's bill "a joke" and asked why Democrats are "kicking the can down the road until other states do something."

"It's our state. It's our lines," Jennings said. "Why can't we just fix our problem right here in Maryland?"

A spokeswoman for the governor said the Democratic bill was a "political ploy designed to give the appearance of supporting redistricting reform while ensuring that it never actually happens."

On the bail bill, the Senate rejected several amendments that would have kept the rule set by the Court of Appeals in place. The court issued the rule change after Frosh raised questions about whether the state's use of cash bail was constitutional.

Sen. Robert A. Zirkin (D-Baltimore County) said the legislation, sponsored by Sen. C. Anthony Muse (D-Prince George's), gives discretion back to individual judges, allowing them to issue bail when they think it is appropriate.

Frosh and members of the Legislative Black Caucus had been pushing the legislature not to take action on any bail legislation this year and let the court's decision remain in place.

Last week, Del. Curtis S. Anderson (D-Baltimore), the House sponsor of the bail bill, withdrew his version of the Senate legislation after talking to court officials and deciding that lawmakers should wait and assess the impact of the rule change over the coming year.

In other action, the Senate gave initial approval to a bill that would prohibit school districts from suspending and expelling 4-year-olds. The measure would also limit other young students in kindergarten through second grade from receiving similar discipline.

Opponents of the bill argued that the measure will tie the hands of local districts; its supporters said young students should not be suspended or expelled unless they pose an "imminent threat."

More than 2,200 students in that age group were suspended or expelled last year, many because they were disruptive or disrespectful.

Nov. 3, 2015 *Baltimore Sun* editorial

The questions are simple, fundamental and almost as old as America itself: How, together, do we citizens end partisan gerrymandering and the political polarization it creates? In a two-party system, how do we check the General Assembly majority's incentive and ability to determine the partisan make-up of our state's congressional delegation by putting a heavy hand on the scale to get it?

Maryland steps to the center of a long, national search for answers this week. Today in Annapolis, a commission that spent the last two months examining the way Maryland draws congressional and state legislative districts will vote on their final recommendations to Gov. Larry Hogan. Tomorrow, in Washington, the U.S. Supreme Court will hear arguments in Shapiro v. McManus, a lawsuit I and two Republican voters filed to challenge the congressional lines state legislators and then-Gov. Martin O'Malley drew in 2011.

A century ago, the states ratified the 17th Amendment to the Constitution, giving voters the power to directly elect our U.S. Senators, who previously were appointed by the legislatures. Now, many states — not just Maryland — alter district lines to effectively determine the partisan make-up of their House delegations; they do so without the authority of a constitutional amendment giving them this role in lieu of the voters.

The underlying argument I and my co-plaintiffs are pursuing invites the justices to recognize minimum standards for redistricting based on the First Amendment and Article 1 of the Constitution. This would break the partisan stranglehold that has been exploited by Republicans in "red" states and by Democrats

here in Maryland and other "blue" states across the country.

Small segments of voters should not be tied by ribbons with very different voters from distant parts of the state — just because those voters have a history of supporting candidates inconsistent with the majority in the legislature. The poor quality of representation afforded by such districts cannot be justified by the desire of the legislature to so firmly determine the make-up of our House delegation.

Here in Maryland, the governor and legislature drew congressional districts that pretty much guarantee Democrats a 7-1 edge in the state's congressional delegation. As the district judge noted in his opinion in our case, Republicans have done almost exactly the same thing in states where they control the legislature. However, the Supreme Court has already held that in regulating congressional elections, the legislatures may not unduly influence the outcomes.

The specific issue before the court on Wednesday is whether our lawsuit and others like it can go forward in the first place. Congress has established special three-judge district courts to hear such cases, with direct appeals to the Supreme Court. However, a decade ago, the Fourth Circuit Court of Appeals, which covers Maryland, decided that a single judge must first decide if our legal theory is valid. In other states, the three-judge court makes that decision, followed by immediate review by the Supreme Court.

I'm a Democrat and proud of it. I served as the chair of my precinct in Bethesda for several years. I testified before the Governor's Redistricting Advisory Committee after the 2010 Census, but the districts that former Governor O'Malley and the legislature's presiding officers drew in 2011 offended me. We should

not so mute the political voices of our neighbors in other parts of the state; we are all Marylanders. I then worked with former Montgomery County Council member Phil Andrews, who was leading the effort in Montgomery County to bring the map to referendum in 2012 — as part of the state-wide effort started by Del. Neil Parrott.

I know that in Republican majority states, GOP legislatures have split neighborhoods and manipulated boundaries to give their party an unfair advantage. So I went to court, representing myself and co-plaintiffs in the U.S. District Court and the Court of Appeals, even without a legal education. Working on the case increased my interest in law, to the point that, at age 55, I'm now a first-year student at American University's Washington College of Law.

If the high court agrees with our argument, limits on gerrymandering would apply to congressional maps across America, reducing the incentive for legislatures to do this in the first place.

Common Cause and other citizen advocacy groups working on this problem picked up a key ally last year with the election of Governor Hogan, who made good on a campaign promise by appointing the reform commission and seems committed to pushing its proposals through the legislature. It was heartening to hear a member of the Democratic leadership like Sen. Conway suggest support for compact and contiguous districts, even if not for the full recommendations of the commission.

As a litigant and a proud Common Cause member, what's most exciting about all this is that the impetus for change is coming from citizens who've seen a problem and have resolved to tackle it. America was founded on the principle that power should flow from "we the

people." That's what our Constitution says. The growing redistricting reform movement is evidence that that idea remains relevant today.

Defendants' Second Supplemental Responses to Plaintiffs' First Set of Requests for Admissions

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

O. JOHN BENISEK, ET AL.,
PLAINTIFFS,
V.
LINDA H. LAMONE, ET AL.,
DEFENDANTS.

CASE NO. 13-CV-3233

DEFENDANTS' SECOND SUPPLEMENTAL RESPONSES TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Defendants Linda H. Lamone and David J. McManus, Jr., state as follows for their responses and objections to Plaintiffs' First Set of Requests for Admissions.

PRELIMINARY STATEMENT

The following responses are based on the Defendants' knowledge, information, and belief, and are complete to the best of their knowledge at this time. The Defendants assume no obligation to supplement or amend voluntarily these responses beyond applicable legal requirements to reflect information, evidence, documents, or things discovered following service of these responses. Furthermore, these responses were prepared based on the Defendants' good faith interpretation and understanding of the Plaintiffs' requests and are subject to correction for inadvertent errors or

omissions, if any. These responses are given without prejudice to subsequent revision, amendment, or supplementation based upon any information, evidence, and documentation that hereinafter may be discovered.

The Defendants reserve the right to refer to, or to offer into evidence at the time of trial, any and all facts, evidence, documents, and things developed during the course of discovery and trial preparation, notwithstanding the reference to facts, evidence, documents, and things in these responses.

The Defendants reserve all objections or other questions as to the competency, relevance, materiality, privilege or admissibility of evidence in any subsequent proceeding of their responses and of any information or documents produced in response thereto.

The Defendants state that, except for facts explicitly admitted herein, no admission of any nature whatsoever is to be implied or inferred from their responses. The fact that the Defendants have responded to a request should not be taken as an admission, or a concession of the existence of any fact set forth, inferred or assumed by such request, or that such response constitutes evidence of any fact thus set forth, inferred, or assumed.

The Defendants' decision to respond to any request, notwithstanding the objectionable nature of any of the requests themselves, is not: (a) an acceptance of, or agreement with, any of the characterizations or purported descriptions of the transactions or events contained in the requests; (b) a concession or admission that the material is relevant to this proceeding; (c) a waiver of the General Objections or of the objections asserted in any specific response; (d) an admission that any such information exists; or (e) an agreement that

responses for similar information will be treated in a similar manner.

GENERAL OBJECTIONS

The Defendants' responses are subject to, qualified by, and limited by the following General Objections, which apply to each specific request as if incorporated and set forth in full in each response.

1. The Defendants object to these requests to the extent they seek material that is not relevant to the subject matter involved in this action or is beyond the scope of what is required to be provided by the Federal Rules of Civil Procedure, the local rules of this Court, or the Orders of the Court in this matter.

2. The Defendants object to these requests to the extent that they are overbroad, oppressive, duplicative, or cumulative.

3. The Defendants object to these requests to the extent that they are vague, ambiguous, fail to specify with reasonable particularity the information sought, or otherwise are incomprehensible.

4. The Defendants object to these requests to the extent that they require the Defendants to make legal conclusions, and/or presuppose legal conclusions or assume the truth of matters that are disputed.

5. The Defendants object to these requests to the extent that they seek admissions regarding information not available to the Defendants and/or that calls for information that is not within the Defendants' possession, custody, or control.

6. The Defendants object to these requests to the extent that they seek information that is protected from disclosure pursuant to the attorney-client privilege, the attorney work product doctrine, executive or

legislative privilege, or otherwise is privileged, protected, or exempt from discovery.

7. In addition to these General Objections, the Defendants also state, where appropriate, other specific objections to individual requests. By setting forth such specific objections, the Defendants neither intend to, nor do, limit or restrict or waive the General Objections, which shall be deemed incorporated in each of the responses to the specific requests that follow, though not specifically referred to or restated therein.

RESPONSES

1. Members of the GRAC considered Maryland voters' political party affiliations when drawing the boundaries of the Sixth Congressional District.

Response 1: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations.

Supplemental Response 1: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, members of the GRAC have indicated their intent to assert legislative and executive privilege as to their decision making and thought processes related to drawing the Proposed Congressional Plan. Subject to and without waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the

public that includes voters' political party affiliations, and the Defendants further admit that this voter registration data was available to the GRAC.

Second Supplemental Response 1: Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations, and the Defendants further admit that this voter registration data was available to the GRAC. Defendants are unable to admit or deny the statement as written because it is unclear what is meant by "considered" or "Maryland voters"'. Defendants further admit that members of the GRAC, as active participants in Maryland politics, each had a general awareness of party affiliation trends and patterns in Maryland. Defendants deny that any member of the GRAC, as opposed to GRAC staff, drew the boundaries of the Sixth District. After reasonable inquiry and because members of the GRAC do not specifically recall the details of their service on the GRAC after six intervening years, Defendants do not have enough information to admit or deny, and therefore deny, that any specific GRAC member considered any data reflecting any Maryland voter's party affiliation, or Maryland voters' party affiliations generally, when approving the proposed congressional plan.

2. Members of the GRAC considered Maryland voters' voting histories when drawing the boundaries of the Sixth Congressional District.

Response 2: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, De-

fendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories.

Supplemental Response 2: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, members of the GRAC have indicated their intent to assert legislative and executive privilege as to their decision making and thought processes related to drawing the Proposed Congressional Plan. Subject to and without waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories, and the Defendants further admit that this voter registration data was available to the GRAC.

Second Supplemental Response 2: Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories, and the Defendants further admit that this voter registration data was available to the GRAC. Defendants are unable to admit or deny the statement as written because it is unclear what is meant by "considered" or "Maryland voters"'. Defendants further admit that members of the GRAC, as active participants in Maryland politics, each had a general awareness of party affiliation trends and patterns in Maryland. Defendants deny that any member of the GRAC, as opposed to GRAC staff, drew the boundaries of the Sixth District. Defendants admit that Richard Stewart recalls reviewing voter turnout data in relation to the location of polling places. After reasonable inquiry and because

members of the GRAC do not specifically recall the details of their service on the GRAC after six intervening years, Defendants do not have enough information to admit or deny, and therefore deny, that any specific GRAC member considered any data reflecting Maryland voter's voting histories, or Maryland voters' voting histories generally, when approving the proposed congressional plan.

3. The Governor considered Maryland voters' political party affiliations when approving the Proposed Congressional Plan, introducing the Proposed Congressional Plan to the Maryland General Assembly, and/or signing the Proposed Congressional Plan into law.

Response 3: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations.

Supplemental Response 3: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, Governor O'Malley has indicated his intent to assert legislative and executive privilege as to his decision making and thought processes related to introducing the Proposed Congressional Plan to the Maryland General Assembly, and/or signing the Proposed Congressional Plan into law. Subject to and without waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that in-

cludes voters' political party affiliations, and the Defendants further admit that this voter registration data was available to the GRAC, which submitted the Proposed Congressional Plan to Governor O'Malley for his approval.

Second Supplemental Response 3: Defendants are unable to admit or deny the statement as written because it is unclear what is meant by "considered" or "Maryland voters'". Defendants admit that Governor O'Malley, as the result of his long political career, possesses an intuitive sense of political party affiliation patterns as they relate to Maryland geography. Defendants further admit that Governor O'Malley's involvement in the 2011 congressional redistricting process included asking his staff about particular voter registration data in relation to a particular geographic area, at the precinct level or above, if the need arose to consider that data for purposes of evaluating the Proposed Congressional Plan. Defendants admit that Governor O'Malley considered the information already known to him and the specific information provided to him orally by staff in approving the Proposed Congressional Plan. Defendants deny that Governor O'Malley considered or asked for individual voter registration information or examined party registration data in written or visual formats for the purposes of evaluating the Proposed Congressional Plan.

4. The Governor considered Maryland voters' voting histories when approving the Proposed Congressional Plan, introducing the Proposed Congressional Plan to the Maryland General Assembly, and/or signing the Proposed Congressional Plan into law.

Response 4: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the

truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories.

Supplemental Response 4: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, Governor O'Malley has indicated his intent to assert legislative and executive privilege as to his decision making and thought processes related to introducing the Proposed Congressional Plan to the Maryland General Assembly, and/or signing the Proposed Congressional Plan into law. Subject to and without waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories, and the Defendants further admit that this voter registration data was available to the GRAC, which submitted the Proposed Congressional Plan to Governor O'Malley for his approval.

Second Supplemental Response 4: Defendants are unable to admit or deny the statement as written because it is unclear what is meant by "considered," "Maryland voters', or "voting history." Defendants admit that Governor O'Malley, as the result of his long political career, possesses an intuitive sense of voter turnout patterns as they relate to Maryland geography. Defendants admit that Governor O'Malley considered the information already known to him and any specific information provided to him orally by staff in approving the Proposed Congressional Plan. Defendants deny that Governor O'Malley considered or asked for individual voter turnout information or examined

turnout data in written or visual formats for the purposes of evaluating the Proposed Congressional Plan.

5. Members of the Maryland General Assembly considered Maryland voters' political party affiliations when enacting the Proposed Congressional Plan.

Response 5: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations.

Supplemental Response 5: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege. Through counsel, members of the Maryland General Assembly involved in drafting the Proposed Congressional Plan have indicated their intent to assert legislative privilege as to their decision making and thought processes related to the Proposed Congressional Plan. Further, it would be unduly burdensome for the Defendants to make inquiries of all 188 members of the General Assembly who voted for the Proposed Congressional Plan, and the subjective intent of those legislators in voting for the Plan is irrelevant to this case. Subject to and without waiving their objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations. Defendants further admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF

No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at:

http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_senate_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1,

that audio recordings of the House Floor proceedings on SB1 are available at:

http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_house_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1,

and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic.

Second Supplemental Response 5: Defendants, after reasonable inquiry, do not have enough information to admit or deny the statement as written. The Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations. Defendants further admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at:

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that audio recordings of the House Floor proceedings on SB1 are available at:

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and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic.

6. Members of the Maryland General Assembly considered Maryland voters' voting histories when enacting the Proposed Congressional Plan.

Response 6: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories.

Supplemental Response 6: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege. Through counsel, members of the Maryland General Assembly involved in drafting the Proposed Congressional Plan have indicated their intent to assert legislative privilege as to their decision making and thought processes related to the Proposed Congressional Plan. Further, it would be unduly burdensome for the Defendants to make inquiries of all 188 members of the General Assembly who voted for the Proposed Congressional Plan, and the subjective intent of those legislators in voting for the Plan is irrelevant to this case. Subject to and without waiving those objections, the Defendants admit that the Mary-

land State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations. Defendants further admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at: http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_senate_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1,

that audio recordings of the House Floor proceedings on SB1 are available at:

http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_house_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1,

and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic.

Second Supplemental Response 6: Defendants, after reasonable inquiry, do not have enough information to admit or deny the statement as written. Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations. Defendants further admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that

the audio recordings of the Senate Floor proceedings on SB1 are available at:

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and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic.

7. A motivation of members of the GRAC in drafting the Proposed Congressional Plan was to make it more likely that a Democrat would be elected as representative from the Sixth Congressional District.

RESPONSE 7: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Supplemental Response 7: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, members of the GRAC have indicated their intent to assert legislative and executive privilege as to their decision making and thought processes related to drawing the Proposed Congressional Plan. Subject to and without waiving those objections, the Defendants admit that a

Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Second Supplemental Response 7: Defendants deny that any member of the GRAC personally drafted a Proposed Congressional Plan. Defendants deny that it was a motivation of Senate President Miller in approving the plan to make it more likely that a Democrat would be elected as representative from the Sixth Congressional District. Defendants do not have enough information to admit, and therefore deny, that a motivation of Speaker Michael Busch, Richard Stewart or Jeanne Hitchcock in approving the Proposed Congressional Plan was to make it more likely that a Democrat would be elected as representative from the Sixth District.

8. A motivation of the Governor in introducing the Proposed Congressional Plan to the Maryland General Assembly and in signing it into law was to make it more likely that a Democrat would be elected as representative from the Sixth Congressional District.

RESPONSE 8: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Supplemental Response 8: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, Governor O'Malley has indicated his intent to assert legislative and executive privilege as to his decision making

and thought processes related to introducing the Proposed Congressional Plan to the General Assembly and signing it into law. Subject to and without waiving those objections, the Defendants admit that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Second Supplemental Response 8: Admitted.

9. A motivation of members of the Maryland General Assembly in enacting the Proposed Congressional Plan was to make it more likely that a Democrat would be elected as representative from the Sixth Congressional District.

RESPONSE 9: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Supplemental Response 9: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege. Through counsel, members of the Maryland General Assembly involved in drafting the Proposed Congressional Plan have indicated their intent to assert legislative privilege as to their decision making and thought processes related to the Proposed Congressional Plan. Further, it would be unduly burdensome for the Defendants to make inquiries of all 188 members of the General Assembly who voted for the Proposed Congressional Plan, and the subjective intent of those legislators in voting for the Plan is irrelevant to this case. Subject to and without waiving

those objections, Defendants admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at:

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that audio recordings of the House Floor proceedings on SB1 are available at:

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and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic. Defendants further admit that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Second Supplemental Response 9: Defendants, after reasonable inquiry, do not have enough information to admit or deny the statement as written. Defendants admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at:

http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_senate_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1, that audio recordings of the House Floor proceedings on SB1 are available at: http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_house_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1, and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic. Defendants further admit that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

10. In her presentation to the House and Senate Democratic Caucuses about the proposed plan on October 3, 2011, GRAC Chair Jeanne Hitchcock stated that the GRAC's proposed map would make it more likely that a Democrat would be elected as the representative from the Sixth Congressional District.

RESPONSE 10: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that GRAC Chair Jeanne Hitchcock briefed the House and Senate Democratic Caucuses about the proposed plan on October 3, 2011.

SUPPLEMENTAL RESPONSE 10: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege. The Defendants admit that GRAC Chair Jeanne Hitchcock briefed the House and Senate Democratic Caucuses about the proposed plan

on October 3, 2011. Through counsel, former GRAC Chair Jeanne Hitchcock has indicated her intent to assert legislative privilege as to her statements made during these briefings. Without waiving that privilege as to any particular statement that she may have made at briefings that occurred over five years ago, Ms. Hitchcock does not believe that she made the statement attributed to her in this request for admission.

SECOND SUPPLEMENTAL RESPONSE 10: Notwithstanding their general objections, the Defendants admit that GRAC Chair Jeanne Hitchcock briefed the House and Senate Democratic Caucuses about the proposed plan on October 3, 2011. Because Ms. Hitchcock cannot recall any particular statement that she may have made at briefings that occurred over five years ago and does not believe that she made the statement attributed to her in this request for admission, Defendants do not have enough information to admit, and therefore deny that Ms. Hitchcock made this statement.

BRIAN E. FROSH
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/s/ Jennifer L. Katz
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Dated: June 2, 2017 Attorneys for Defendants

Second Declaration of Yaakov Weissmann

**IN THE UNITED STATES
DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

O. JOHN BENISEK, et al.,

Plaintiffs,

v.

LINDA H. LAMONE., et al.,

Defendants.

Case No. 13-cv-3233

**SECOND DECLARATION OF
YAAKOV WEISSMANN**

I, Yaakov Weissmann, under penalty of perjury, declare and state:

1. I, Yaakov "Jake" Weissmann, am over the age of eighteen and competent to testify on the matters stated below.

2. I have reviewed the July 10, 2017 Declaration of Professor Michael McDonald filed in this case as ECF 191-5. In that document, Professor McDonald draws conclusions from the dates of files produced to plaintiffs from my laptop and from the file names assigned to the files.

3. The dates of files produced to plaintiffs are not reflective of the date of last substantive change to the map. We would regularly send plans to the Department of Planning, the Department of Legislative Services, or others to obtain technical input. Cleaned up maps (correcting missing medians for example) would be uploaded in place of the old maps after the maps were received from these other State entities.

4. Other than the map described in paragraph 8 of my June 29, 2017 declaration, I do not remember receiving additional draft maps from the Congressional delegation or NCEC. The file names "Congressional Option 1" and "Congressional Option 2" were chosen by me to mark these draft maps as the main options to be considered by decisionmakers for the congressional plan. We were contemporaneously also drafting maps related to legislative districts, and I used these names to indicate that these were maps for the statewide congressional districts. I do not recall what particular factors led me to choose these names for "Congressional Option 1" and "Congressional Option 2" compared with "111012 Group", "111012 Group2", and "111012 Group Zeroed Out," other file names mentioned by Professor McDonald.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

8/1/17 _____ /s/ _____

Date Yaakov Weissmann

U.S. Census Bureau on Race

Race

About

The U.S. Census Bureau must adhere to the 1997 Office of Management and Budget (OMB) standards on race and ethnicity which guide the Census Bureau in classifying written responses to the race question:

White—A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Black or African American—A person having origins in any of the Black racial groups of Africa.

American Indian or Alaska Native—A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

Asian—A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Native Hawaiian or Other Pacific Islander—A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

The 1997 OMB standards permit the reporting of more than one race. An individual's response to the race question is based upon self-identification.

The Census Bureau does not tell individuals which boxes to mark or what heritage to write in. For the first time in Census 2000, individuals were presented with the option to self-identify with more than one race

and this continued with the 2010 Census. People who identify with more than one race may choose to provide multiple races in response to the race question. For example, if a respondent identifies as "Asian" and "White," they may respond to the question on race by checking the appropriate boxes that describe their racial identities and/or writing in these identities on the spaces provided.

What is Race?

The data on race were derived from answers to the question on race that was asked of individuals in the United States. The Census Bureau collects racial data in accordance with guidelines provided by the U.S. Office of Management and Budget (OMB), and these data are based on self-identification.

The racial categories included in the census questionnaire generally reflect a social definition of race recognized in this country and not an attempt to define race biologically, anthropologically, or genetically. In addition, it is recognized that the categories of the race item include racial and national origin or sociocultural groups. People may choose to report more than one race to indicate their racial mixture, such as "American Indian" and "White." People who identify their origin as Hispanic, Latino, or Spanish may be of any race.

OMB requires five minimum categories: White, Black or African American, American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander.

Reasons for Collecting Information on Race

Information for race is required for many Federal programs and is critical in making policy decisions, particularly for civil rights. States use these data to meet legislative redistricting principles. Race data also

are used to promote equal employment opportunities and to assess racial disparities in health and environmental risks.

Contact Us

For assistance, please contact the Census Call Center at 1-800-923-8282 (toll free) or visit ask.census.gov for further information.